Title 35
Criminal Law and Procedure

TITLE 35. CRIMINAL LAW AND PROCEDURE

IC 35-33

ARTICLE 33. PRELIMINARY PROCEEDINGS

IC 35-33-11
Chapter 11. Emergency Transfer of Certain Jail Inmates

IC 35-33-11-1
Sec. 1. Upon motion by the:
(1) sheriff;
(2) prosecuting attorney;
(3) defendant or his counsel;
(4) attorney general; or
(5) court;
alleging that an inmate in a county jail awaiting trial is in danger of serious bodily injury or death or represents a substantial threat to the safety of others, the court shall determine whether the inmate is in imminent danger of serious bodily injury or death, or represents a substantial threat to the safety of others. If the court finds that the inmate is in danger of serious bodily injury or death or represents a substantial threat to the safety of others, it shall order the sheriff to transfer the inmate to another county jail or to a facility of the department of correction designated by the commissioner of the department as suitable for the confinement of that prisoner and provided that space is available. For the purpose of this chapter, an inmate is not considered in danger of serious bodily injury or death due to an illness or other medical condition.
As added by Acts 1981, P.L.298, SEC.2.

IC 35-35

ARTICLE 35. PLEADING AND PROCEDURE

IC 35-35-1
Chapter 1. Pleas

IC 35-35-1-1
Sec. 1. A plea of guilty, or guilty but mentally ill at the time of the crime, shall not be accepted from a defendant unrepresented by counsel who has not freely and knowingly waived his right to counsel.
As added by Acts 1981, P.L.298, SEC.4.
IC 35-35-1-2
Sec. 2. (a) The court shall not accept a plea of guilty or guilty but mentally ill at the time of the crime without first determining that the defendant:
(1) understands the nature of the charge against him;
(2) has been informed that by his plea he waives his rights to:
(A) a public and speedy trial by jury;
(B) confront and cross-examine the witnesses against him;
(C) have compulsory process for obtaining witnesses in his favor; and
(D) require the state to prove his guilt beyond a reasonable doubt at a trial at which the defendant may not be compelled to testify against himself;
(3) has been informed of the maximum possible sentence and minimum sentence for the crime charged and

any possible increased sentence by reason of the fact of a prior conviction or convictions, and any possibility of the imposition of consecutive sentences; and
(4) has been informed that if:
(A) there is a plea agreement as defined by IC 35-35-3-1; and
(B) the court accepts the plea;
the court is bound by the terms of the plea agreement.
(b) A defendant in a misdemeanor case may waive the rights under subsection (a) by signing a written waiver.
(c) Any variance from the requirements of this section that does not violate a constitutional right of the defendant is not a basis for setting aside a plea of guilty.
As added by Acts 1981, P.L.298, SEC.4. Amended by P.L.179-1984, SEC.1; P.L.313-1985, SEC.1.

IC 35-35-1-3

Sec. 3. (a) The court shall not accept a plea of guilty or guilty but mentally ill at the time of the crime without first determining that the plea is voluntary. The court shall determine whether any promises, force, or threats were used to obtain the plea.
(b) The court shall not enter judgment upon a plea of guilty or guilty but mentally ill at the time of the crime unless it is satisfied from its examination of the defendant or the evidence presented that there is a factual basis for the plea.
(c) A plea of guilty or guilty but mentally ill at the time of the crime shall not be deemed to be involuntary under subsection (a) solely because it is the product of an agreement between the prosecution and the defense.
As added by Acts 1981, P.L.298, SEC.4. Amended by P.L.320-1983, SEC.16; P.L.179-1984, SEC.2.

IC 35-35-1-4

Sec. 4. (a) A motion to withdraw a plea of not guilty for the purpose of entering a plea of guilty, or guilty but mentally ill at the time of the crime, may be made orally in open court and need not state any reason for the withdrawal of the plea.
(b) After entry of a plea of guilty, or guilty but mentally ill at the time of the crime, but before imposition of sentence, the court may allow the defendant by motion to withdraw his plea of guilty, or guilty but mentally ill at the time of the crime, for any fair and just reason unless the state has been substantially prejudiced by reliance upon the defendant's plea. The motion to withdraw the plea of guilty or guilty but mentally ill at the time of the crime made under this subsection shall be in writing and verified. The motion shall state facts in support of the relief demanded, and the state may file counter-affidavits in opposition to the motion. The ruling of the court on the motion shall be reviewable on appeal only for an abuse of discretion. However, the court shall allow the defendant to withdraw his plea of guilty, or guilty but mentally ill at the time of the crime, whenever the defendant proves that withdrawal of the plea is necessary to correct a manifest injustice.
(c) After being sentenced following a plea of guilty, or guilty but mentally ill at the time of the crime, the convicted person may not as a matter of right withdraw the plea. However, upon motion of the convicted person, the court shall vacate the judgment and allow the withdrawal whenever the convicted person proves that withdrawal is necessary to correct a manifest injustice. A motion to vacate judgment and withdraw the plea made under this subsection shall be treated by the court as a petition for postconviction relief under the Indiana Rules of Procedure for Postconviction Remedies. For purposes of this section, withdrawal of the plea is necessary to correct a manifest injustice whenever:
(1) the convicted person was denied the effective assistance of counsel;
(2) the plea was not entered or ratified by the convicted person;
(3) the plea was not knowingly and voluntarily made;
(4) the prosecuting attorney failed to abide by the terms of a plea agreement; or
(5) the plea and judgment of conviction are void or voidable for any other reason.
The motion to vacate the judgment and withdraw the plea need not allege, and it need not be proved, that the convicted person is innocent of the crime charged or that he has a valid defense.
(d) A plea of guilty, or guilty but mentally ill at the time of the crime, which is not accepted by the court or is withdrawn shall not be admissible as evidence in any criminal, civil, or administrative proceeding.
(e) Upon any motion made under this section, the moving party has the burden of establishing his grounds for relief by a preponderance of the evidence. The order of the court upon a motion made under subsection (b) or (c) of this section shall constitute a final judgment from which the moving party or the state may

appeal as otherwise provided by law. The order of the court upon a motion made under subsection (a) of this section is not a final judgment and is not appealable but is reviewable upon appeal from a final judgment subsequently entered.
As added by Acts 1981, P.L.298, SEC.4. Amended by Acts 1982, P.L.204, SEC.25; P.L.320-1983, SEC.17.

IC 35-36

ARTICLE 36. PRETRIAL NOTICES, MOTIONS, AND PROCEDURES

IC 35-36-1
Chapter 1. Definitions

IC 35-36-1-1
Sec. 1. As used in this article:
"Insanity" refers to the defense set out in IC 35-41-3-6.
"Mentally ill" means having a psychiatric disorder which substantially disturbs a person's thinking, feeling, or behavior and impairs the person's ability to function; "mentally ill" also includes having any mental retardation.
"Omnibus date" refers to the omnibus date established under IC 35-36-8-1.
As added by Acts 1981, P.L.298, SEC.5.

IC 35-36-2
Chapter 2. Affirmative Defense of Insanity or Mental Illness; Pleadings, Orders, and Findings

IC 35-36-2-1
Sec. 1. When the defendant in a criminal case intends to interpose the defense of insanity, he must file a notice of that intent with the trial court no later than:
(1) twenty (20) days if the defendant is charged with a felony; or
(2) ten (10) days if the defendant is charged only with one (1) or more misdemeanors;
before the omnibus date. However, in the interest of justice and upon a showing of good cause, the court may permit the filing to be made at any time before commencement of the trial.
As added by Acts 1981, P.L.298, SEC.5. Amended by Acts 1982, P.L.204, SEC.29.
IC 35-36-2-2
Sec. 2. At the trial of a criminal case in which the defendant intends to interpose the defense of insanity, evidence may be introduced to prove the defendant's sanity or insanity at the time at which the defendant is alleged to have committed the offense charged in the indictment or information. When notice of an insanity defense is filed, the court shall appoint two (2) or three (3) competent disinterested psychiatrists, psychologists endorsed by the state psychology board as health service providers in psychology, or physicians, at least one (1) of whom must be a psychiatrist, to examine the defendant and to testify at the trial. This testimony shall follow the presentation of the evidence for the prosecution and for the defense, including testimony of any medical experts employed by the state or by the defense. The medical witnesses appointed by the court may be cross-examined by both the prosecution and the defense, and each side may introduce evidence in rebuttal to the testimony of such a medical witness.
As added by Acts 1981, P.L.298, SEC.5. Amended by P.L.321-1983, SEC.2; P.L.19-1986, SEC.59; P.L.149-1987, SEC.119.
IC 35-36-2-3
Sec. 3. In all cases in which the defense of insanity is interposed, the jury (or the court if tried by it) shall find whether the defendant is:
(1) guilty;
(2) not guilty;
(3) not responsible by reason of insanity at the time of the crime; or
(4) guilty but mentally ill at the time of the crime.
As added by Acts 1981, P.L.298, SEC.5.
IC 35-36-2-4
Sec. 4. Whenever a defendant is found not responsible by reason of insanity at the time of the crime, the

prosecuting attorney shall file a written petition with the court under IC 12-26-6-2(a)(3) or under IC 12-26-7. If a petition is filed under IC 12-26-6-2(a)(3), the court
shall hold a commitment hearing under IC 12-26-6. If a petition is filed under IC 12-26-7, the court shall hold a commitment hearing under IC 12-26-7. The hearing shall be conducted at the earliest opportunity after the finding of not responsible by reason of insanity at the time of the crime, and the defendant shall be detained in custody until the completion of the hearing. The court may take judicial notice of evidence introduced during the trial of the defendant and may call the physicians appointed by the court to testify concerning whether the defendant is currently mentally ill and dangerous or currently mentally ill and gravely disabled, as those terms are defined by IC 12-7-2-96 and IC 12-7-2-130(a)(1). The court may subpoena any other persons with knowledge concerning the issues presented at the hearing. The defendant has all the rights provided by the provisions of IC 12-26 under which the petition against the defendant was filed. The prosecuting attorney may cross-examine the witnesses and present relevant evidence concerning the issues presented at the hearing.
As added by Acts 1981, P.L.298, SEC.5. Amended by P.L.200-1983, SEC.4; P.L.2-1992, SEC.869.

IC 35-36-2-5

Sec. 5. (a) Except as provided by subsection (e), whenever a defendant is found guilty but mentally ill at the time of the crime or enters a plea to that effect that is accepted by the court, the court shall sentence the defendant in the same manner as a defendant found guilty of the offense.
(b) Before sentencing the defendant under subsection (a), the court shall require the defendant to be evaluated by a physician licensed under IC 25-22.5 who practices psychiatric medicine, a licensed psychologist, or a community mental health center (as defined in IC 12-7-2-38). However, the court may waive this requirement if the defendant was evaluated by a physician licensed under IC 25-22.5 who practices psychiatric medicine, a licensed psychologist, or a community mental health center and the evaluation is contained in the record of the defendant's trial or plea agreement hearing.
(c) If a defendant who is found guilty but mentally ill at the time of the crime is committed to the department of correction, the defendant shall be further evaluated and then treated in such a manner as is psychiatrically indicated for the defendant's mental illness. Treatment may be provided by:
(1) the department of correction; or
(2) the division of mental health and addiction after transfer under IC 11-10-4.
(d) If a defendant who is found guilty but mentally ill at the time of the crime is placed on probation, the court may, in accordance with IC 35-38-2-2.3, require that the defendant undergo treatment.
(e) As used in this subsection, "mentally retarded individual" has the meaning set forth in IC 35-36-9-2. If a court determines under IC 35-36-9 that a defendant who is charged with a murder for which the state seeks a death sentence is a mentally retarded individual, the court shall sentence the defendant under IC 35-50-2-3(a).
As added by Acts 1981, P.L.298, SEC.5. Amended by P.L.320-1983, SEC.21; P.L.1-1991, SEC.191; P.L.2-1992, SEC.870; P.L.1-1993, SEC.239; P.L.158-1994, SEC.2; P.L.121-1996, SEC.3; P.L.215-2001, SEC.108.

IC 35-36-3
Chapter 3. Comprehension to Stand Trial

IC 35-36-3-1

Sec. 1. (a) If at any time before the final submission of any criminal case to the court or the jury trying the case, the court has reasonable grounds for believing that the defendant lacks the ability to understand the proceedings and assist in the preparation of his defense, the court shall immediately fix a time for a hearing to determine whether the defendant has that ability. The court shall appoint two (2) or three (3) competent, disinterested psychiatrists, psychologists endorsed by the Indiana state board of examiners in psychology as health service providers in psychology, or physicians, at least one (1) of whom must be a psychiatrist, who shall examine the defendant and testify at the hearing as to whether the defendant can understand the proceedings and assist in the preparation of the defendant's defense.
(b) At the hearing, other evidence relevant to whether the defendant has the ability to understand the proceedings and assist in the preparation of the defendant's defense may be introduced. If the court finds that the defendant has the ability to understand the proceedings and assist in the preparation of the defendant's defense, the trial shall proceed. If the court finds that the defendant lacks this ability, it shall delay or continue the trial and order the defendant committed to the division of mental health, to be

confined by the division in an appropriate psychiatric institution.
As added by Acts 1981, P.L.298, SEC.5. Amended by P.L.321-1983, SEC.3; P.L.19-1986, SEC.60; P.L.2-1992, SEC.871.

IC 35-36-3-2

Sec. 2. Whenever the defendant attains the ability to understand the proceedings and assist in the preparation of the defendant's defense, the division of mental health, through the superintendent of the appropriate psychiatric institution, shall certify that fact to the proper court, which shall enter an order directing the sheriff to return the defendant. The court may enter such an order immediately after being sufficiently advised of the defendant's attainment of the ability to understand the proceedings and assist in the preparation of the defendant's defense. Upon the return to court of any defendant committed under section 1 of this chapter, the court shall hold the trial as if no delay or postponement had occurred.
As added by Acts 1981, P.L.298, SEC.5. Amended by P.L.2-1992, SEC.872.

IC 35-36-3-3

Sec. 3. Within ninety (90) days after a defendant's admittance to a psychiatric institution, the superintendent of the psychiatric institution shall certify to the proper court whether the defendant has a substantial probability of attaining the ability to understand the proceedings and assist in the preparation of the defendant's defense within the foreseeable future. If a substantial probability does not exist, the division of mental health shall initiate regular commitment proceedings
under IC 12-26. If a substantial probability does exist, the division of mental health shall retain the defendant:
(1) until the defendant attains the ability to understand the proceedings and assist in the preparation of the defendant's defense and is returned to the proper court for trial; or
(2) for six (6) months from the date of the defendant's admittance;
whichever first occurs.
As added by Acts 1981, P.L.298, SEC.5. Amended by P.L.2-1992, SEC.873.

IC 35-36-3-4

Sec. 4. If a defendant who was found under section 3 of this chapter to have had a substantial probability of attaining the ability to understand the proceedings and assist in the preparation of the defendant's defense has not attained that ability within six (6) months after the date of the defendant's admittance to a psychiatric institution, the division of mental health shall institute regular commitment proceedings under IC 12-26.
As added by Acts 1981, P.L.298, SEC.5. Amended by P.L.2-1992, SEC.874.

IC 35-36-9

Chapter 9. Pretrial Determination of Mental Retardation in Death Sentence Cases

IC 35-36-9-1

Sec. 1. This chapter applies when a defendant is charged with a murder for which the state seeks a death sentence under IC 35-50-2-9.
As added by P.L.158-1994, SEC.3. Amended by P.L.2-1996, SEC.283.

IC 35-36-9-2

Sec. 2. As used in this chapter, "mentally retarded individual" means an individual who, before becoming twenty-two (22) years of age, manifests:
(1) significantly subaverage intellectual functioning; and
(2) substantial impairment of adaptive behavior;
that is documented in a court ordered evaluative report.
As added by P.L.158-1994, SEC.3.

IC 35-36-9-3

Sec. 3. (a) The defendant may file a petition alleging that the defendant is a mentally retarded individual.
(b) The petition must be filed not later than twenty (20) days before the omnibus date.
(c) Whenever the defendant files a petition under this section, the court shall order an evaluation of the defendant for the purpose of providing evidence of the following:
(1) Whether the defendant has a significantly subaverage level of intellectual functioning.
(2) Whether the defendant's adaptive behavior is substantially impaired.
(3) Whether the conditions described in subdivisions (1) and (2) existed before the defendant became

twenty-two (22) years of age.
As added by P.L.158-1994, SEC.3.

IC 35-36-9-4

Sec. 4. (a) The court shall conduct a hearing on the petition under this chapter.
(b) At the hearing, the defendant must prove by clear and convincing evidence that the defendant is a mentally retarded individual.
As added by P.L.158-1994, SEC.3.

IC 35-36-9-5

Sec. 5. Not later than ten (10) days before the initial trial date, the court shall determine whether the defendant is a mentally retarded individual based on the evidence set forth at the hearing under section 4 of this chapter. The court shall articulate findings supporting the court's determination under this section.
As added by P.L.158-1994, SEC.3.

IC 35-36-9-6

Sec. 6. If the court determines that the defendant is a mentally retarded individual under section 5 of this chapter, the part of the state's charging instrument filed under IC 35-50-2-9(a) that seeks a death sentence against the defendant shall be dismissed.
As added by P.L.158-1994, SEC.3.

IC 35-36-9-7

Sec. 7. If a defendant who is determined to be a mentally retarded individual under this chapter is convicted of murder, the court shall sentence the defendant under IC 35-50-2-3(a).
As added by P.L.158-1994, SEC.3.

IC 35-37

ARTICLE 37. TRIAL PROCEDURE

IC 35-37-4

Chapter 4. Evidence and Protection of Certain Witnesses

IC 35-37-4-6

Sec. 6. (a) This section applies to a criminal action under the following:
(1) Sex crimes (IC 35-42-4).
(2) Battery upon a child (IC 35-42-2-1(2)(B)).
(3) Kidnapping and confinement (IC 35-42-3).
(4) Incest (IC 35-46-1-3).
(5) Neglect of a dependent (IC 35-46-1-4).
(6) An attempt under IC 35-41-5-1 for an offense listed in subdivisions (1) through (5).
(b) As used in this section, "protected person" means:
(1) a child who is less than fourteen (14) years of age; or
(2) a mentally disabled individual who has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:
(A) is manifested before the individual is eighteen (18) years of age;
(B) is likely to continue indefinitely;
(C) constitutes a substantial impairment of the individual's ability to function normally in society; and
(D) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.
(c) A statement or videotape that:
(1) is made by a person who at the time of trial is a protected person;
(2) concerns an act that is a material element of an offense listed in subsection (a) that was allegedly committed against the person; and
(3) is not otherwise admissible in evidence;
is admissible in evidence in a criminal action for an offense listed in subsection (a) if the requirements of subsection (d) are met.
(d) A statement or videotape described in subsection (c) is admissible in evidence in a criminal action listed in subsection (a) if, after notice to the defendant of a hearing and of his right to be present, all of the following conditions are met:

(1) The court finds, in a hearing:
(A) conducted outside the presence of the jury; and
(B) attended by the protected person;
that the time, content, and circumstances of the statement or videotape provide sufficient indications of reliability.
(2) The protected person:
(A) testifies at the trial; or
(B) is found by the court to be unavailable as a witness for one (1) of the following reasons:
(i) From the testimony of a psychiatrist, physician, or psychologist, and other evidence, if any, the court finds that the protected person's testifying in the physical presence of the defendant will cause the protected person to suffer serious emotional distress such that the protected person cannot reasonably communicate.
(ii) The protected person cannot participate in the trial for medical reasons.
(iii) The court has determined that the protected person is incapable of understanding the nature and obligation of an oath.
(e) If a protected person is unavailable to testify at the trial for a reason listed in subsection (d)(2)(B), a statement or videotape may be admitted in evidence under this section only if the protected person was available for cross-examination:
(1) at the hearing described in subsection (d)(1); or
(2) when the statement or videotape was made.
(f) A statement or videotape may not be admitted in evidence under this section unless the prosecuting attorney informs the defendant and the defendant's attorney at least ten (10) days before the trial of:
(1) his intention to introduce the statement or videotape in evidence; and
(2) the content of the statement or videotape.
(g) If a statement or videotape is admitted in evidence under this section, the court shall instruct the jury that it is for the jury to determine the weight and credit to be given the statement or videotape and that, in making that determination, the jury shall consider the following:
(1) The mental and physical age of the person making the statement or videotape.
(2) The nature of the statement or videotape.
(3) The circumstances under which the statement or videotape was made.
(4) Other relevant factors.
As added by P.L.180-1984, SEC.1. Amended by P.L.316-1985, SEC.1; P.L.37-1990, SEC.22; P.L.23-1993, SEC.161; P.L.142-1994, SEC.7.

IC 35-37-4-8

Sec. 8. (a) This section applies to a criminal action under the following:
(1) Sex crimes (IC 35-42-4).
(2) Battery upon a child (IC 35-42-2-1(2)(B)).
(3) Kidnapping and confinement (IC 35-42-3).
(4) Incest (IC 35-46-1-3).
(5) Neglect of a dependent (IC 35-46-1-4).
(6) An attempt under IC 35-41-5-1 for an offense listed in subdivisions (1) through (5).
(b) As used in this section, "protected person" has the meaning set forth in section 6 of this chapter.
(c) On the motion of the prosecuting attorney, the court may order that the testimony of a protected person be taken in a room other than the courtroom, and that the questioning of the protected person by the prosecution and the defense be transmitted using a two-way closed circuit television arrangement that:
(1) allows the protected person to see the accused and the trier of fact; and
(2) allows the accused and the trier of fact to see and hear the protected person.
(d) On the motion of the prosecuting attorney or the defendant, the court may order that the testimony of a protected person be videotaped for use at trial. The videotaping of the testimony of a protected person under this subsection must meet the requirements of subsection (c).
(e) The court may not make an order under subsection (c) or (d) unless:
(1) the testimony to be taken is the testimony of a protected person who:
(A) is the alleged victim of an offense listed in subsection (a) for which the defendant is being tried or is a witness in a trial for an offense listed in subsection (a); and
(B) is found by the court to be a protected person who should be permitted to testify outside the courtroom because:
(i) the court finds from the testimony of a psychiatrist, physician, or psychologist and any other evidence

that the protected person's testifying in the physical presence of the defendant would cause the protected person to suffer serious emotional harm and the court finds that the protected person could not reasonably communicate in the physical presence of the defendant to the trier of fact;
(ii) a physician has certified that the protected person cannot be present in the courtroom for medical reasons; or
(iii) evidence has been introduced concerning the effect of the protected person's testifying in the physical presence of the defendant, and the court finds that it is more likely than not that the protected person's testifying in the physical presence of the defendant creates a substantial likelihood of emotional or mental harm to the protected person;
(2) the prosecuting attorney has informed the defendant and the defendant's attorney of the intention to have the protected person testify outside the courtroom; and
(3) the prosecuting attorney informed the defendant and the defendant's attorney under subdivision (2) at least ten (10) days before the trial of the prosecuting attorney's intention to have the protected person testify outside the courtroom.
(f) If the court makes an order under subsection (c), only the
following persons may be in the same room as the protected person during the protected person's testimony:
(1) A defense attorney if:
(A) the defendant is represented by the defense attorney; and
(B) the prosecuting attorney is also in the same room.
(2) The prosecuting attorney if:
(A) the defendant is represented by a defense attorney; and
(B) the defense attorney is also in the same room.
(3) Persons necessary to operate the closed circuit television equipment.
(4) Persons whose presence the court finds will contribute to the protected person's well-being.
(5) A court bailiff or court representative.
(g) If the court makes an order under subsection (d), only the following persons may be in the same room as the protected person during the protected person's videotaped testimony:
(1) The judge.
(2) The prosecuting attorney.
(3) The defendant's attorney (or the defendant, if the defendant is not represented by an attorney).
(4) Persons necessary to operate the electronic equipment.
(5) The court reporter.
(6) Persons whose presence the court finds will contribute to the protected person's well-being.
(7) The defendant, who can observe and hear the testimony of the protected person with the protected person being able to observe or hear the defendant. However, if the defendant is not represented by an attorney, the defendant may question the protected person.
(h) If the court makes an order under subsection (c) or (d), only the following persons may question the protected person:
(1) The prosecuting attorney.
(2) The defendant's attorney (or the defendant, if the defendant is not represented by an attorney).
(3) The judge.
As added by P.L.203-1986, SEC.2. Amended by P.L.37-1990, SEC.23; P.L.142-1994, SEC.8.

IC 35-38

ARTICLE 38. PROCEEDINGS FOLLOWING

IC 35-38-1
Chapter 1. Entry of Judgment and Sentencing

IC 35-38-1-1
Judgment of conviction; pronouncement of sentence
Sec. 1. (a) Except as provided in section 1.5 of this chapter, after a verdict, finding, or plea of guilty, if a new trial is not granted, the court shall enter a judgment of conviction.
(b) When the court pronounces the sentence, the court shall advise the person that the person is sentenced

for not less than the earliest release date and for not more than the maximum possible release date.
As added by P.L.311-1983, SEC.3. Amended by P.L.148-1995, SEC.3; P.L.98-2003, SEC.1.

IC 35-38-1-1.5
Converting Class D felony to Class A misdemeanor
Sec. 1.5. (a) A court may enter judgment of conviction as a Class D felony with the express provision that the conviction will be converted to a conviction as a Class A misdemeanor within three (3) years if the person fulfills certain conditions. A court may enter a judgment of conviction as a Class D felony with the express provision that the conviction will be converted to a conviction as a Class A misdemeanor only if the person pleads guilty to a Class D felony that qualifies for consideration as a Class A misdemeanor under IC 35-50-2-7, and the following conditions are met:
(1) The prosecuting attorney consents.
(2) The person agrees to the conditions set by the court.
(b) For a judgment of conviction to be entered under subsection (a), the court, the prosecuting attorney, and the person must all agree to the conditions set by the court under subsection (a).
(c) The court is not required to convert a judgment of conviction entered as a Class D felony to a Class A misdemeanor if, after a hearing, the court finds:
(1) the person has violated a condition set by the court under subsection (a); or
(2) the period that the conditions set by the court under subsection (a) are in effect expires before the person successfully completes each condition.
However, the court may not convert a judgment of conviction entered as a Class D felony to a Class A misdemeanor if the person commits a new offense before the conditions set by the court under subsection (a) expire.
(d) The court shall enter judgment of conviction as a Class A misdemeanor if the person fulfills the conditions set by the court
under subsection (a).
(e) The entry of a judgment of conviction under this section does not affect the application of any statute requiring the suspension of a person's driving privileges.
(f) This section may not be construed to diminish or alter the rights of a victim (as defined in IC 35-40-4-8) in a sentencing proceeding under this chapter.
As added by P.L.98-2003, SEC.2.

IC 35-38-1-2.5
Crime of deception
Sec. 2.5. (a) As used in this section, "crime of deception" means any offense in which a person assumes the identity of another person, professes to be another person, uses the identifying information of another person, or falsely suggests that the person is acting with the authority of another person. The term includes an offense under IC 35-43-5.
(b) This section applies to an offender who has been convicted of a crime of deception.
(c) During or after the sentencing of a person convicted of a crime of deception, the court may, upon motion by the state or upon application by a victim or a victim's representative, issue an order:
(1) describing the person whose credit history may be affected by the offender's crime of deception, with sufficient identifying information to assist another person in correcting the credit history; and
(2) stating that the person described in subdivision (1) was the victim of a crime of deception that may have affected the person's credit history.
(d) The order described in subsection (c) may be used to correct the credit history of any person described in the order.
As added by P.L.22-2003, SEC.3.

IC 35-38-1-7.1
Considerations in imposing sentence
Sec. 7.1. (a) In determining what sentence to impose for a crime, the court shall consider:
(1) the risk that the person will commit another crime;
(2) the nature and circumstances of the crime committed;
(3) the person's:

(A) prior criminal record;
(B) character; and
(C) condition;
(4) whether the victim of the crime was less than twelve (12) years of age or at least sixty-five (65) years of age;
(5) whether the person committed the offense in the presence or within hearing of a person who is less than eighteen (18) years of age who was not the victim of the offense;
(6) whether the person violated a protective order issued against the person under IC 34-26-5 (or IC 31-1-11.5, IC 34-26-2, or IC 34-4-5.1 before their repeal), a workplace violence restraining order issued against the person under IC 34-26-6, or a no contact order issued against the person; and
(7) any oral or written statement made by a victim of the crime.
(b) The court may consider the following factors as aggravating circumstances or as favoring imposing consecutive terms of
imprisonment:
(1) The person has recently violated the conditions of any probation, parole, or pardon granted to the person.
(2) The person has a history of criminal or delinquent activity.
(3) The person is in need of correctional or rehabilitative treatment that can best be provided by commitment of the person to a penal facility.
(4) Imposition of a reduced sentence or suspension of the sentence and imposition of probation would depreciate the seriousness of the crime.
(5) The victim of the crime was less than twelve (12) years of age or at least sixty-five (65) years of age.
(6) The victim of the crime was mentally or physically infirm.
(7) The person committed a forcible felony while wearing a garment designed to resist the penetration of a bullet.
(8) The person committed a sex crime listed in subsection (e) and:
(A) the crime created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV) and involved the sex organ of one (1) person and the mouth, anus, or sex organ of another person;
(B) the person had knowledge that the person was a carrier of HIV; and
(C) the person had received risk counseling as described in subsection (g).
(9) The person committed an offense related to controlled substances listed in subsection (f) if:
(A) the offense involved:
(i) the delivery by any person to another person; or
(ii) the use by any person on another person;
of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact;
(B) the person had knowledge that the person was a carrier of the human immunodeficiency virus (HIV); and
(C) the person had received risk counseling as described in subsection (g).
(10) The person committed the offense in an area of a consolidated or second class city that is designated as a public safety improvement area by the Indiana criminal justice institute under IC 36-8-19.5.
(11) The injury to or death of the victim of the crime was the result of shaken baby syndrome (as defined in IC 16-41-40-2).
(12) Before the commission of the crime, the person administered to the victim of the crime, without the victim's knowledge, a sedating drug or a drug that had a hypnotic effect on the victim, or the person had knowledge that such a drug had been administered to the victim without the victim's knowledge.
(13) The person:
(A) committed trafficking with an inmate under IC 35-44-3-9; and
(B) is an employee of the penal facility.
(14) The person committed the offense in the presence or within hearing of a person who is less than eighteen (18) years of age who was not the victim of the offense.
(c) The court may consider the following factors as mitigating circumstances or as favoring suspending the sentence and imposing probation:
(1) The crime neither caused nor threatened serious harm to persons or property, or the person did not contemplate that it would do so.

(2) The crime was the result of circumstances unlikely to recur.
(3) The victim of the crime induced or facilitated the offense.
(4) There are substantial grounds tending to excuse or justify the crime, though failing to establish a defense.
(5) The person acted under strong provocation.
(6) The person has no history of delinquency or criminal activity, or the person has led a law-abiding life for a substantial period before commission of the crime.
(7) The person is likely to respond affirmatively to probation or short term imprisonment.
(8) The character and attitudes of the person indicate that the person is unlikely to commit another crime.
(9) The person has made or will make restitution to the victim of the crime for the injury, damage, or loss sustained.
(10) Imprisonment of the person will result in undue hardship to the person or the dependents of the person.
(11) The person was convicted of a crime involving the use of force against a person who had repeatedly inflicted physical or sexual abuse upon the convicted person and evidence shows that the convicted person suffered from the effects of battery as a result of the past course of conduct of the individual who is the victim of the crime for which the person was convicted.
(d) The criteria listed in subsections (b) and (c) do not limit the matters that the court may consider in determining the sentence.
(e) For the purposes of this article, the following crimes are considered sex crimes:
(1) Rape (IC 35-42-4-1).
(2) Criminal deviate conduct (IC 35-42-4-2).
(3) Child molesting (IC 35-42-4-3).
(4) Child seduction (IC 35-42-4-7).
(5) Prostitution (IC 35-45-4-2).
(6) Patronizing a prostitute (IC 35-45-4-3).
(7) Incest (IC 35-46-1-3).
(8) Sexual misconduct with a minor under IC 35-42-4-9(a).
(f) For the purposes of this article, the following crimes are considered offenses related to controlled substances:
(1) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).
(2) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
(3) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
(4) Dealing in a schedule V controlled substance (IC 35-48-4-4).
(5) Possession of cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-6).
(6) Possession of a controlled substance (IC 35-48-4-7).
(7) Dealing in paraphernalia (IC 35-48-4-8.5).
(8) Possession of paraphernalia (IC 35-48-4-8.3).
(9) Offenses relating to registration (IC 35-48-4-14).
(g) For the purposes of this section, a person received risk counseling if the person had been:
(1) notified in person or in writing that tests have confirmed the presence of antibodies to the human immunodeficiency virus (HIV) in the person's blood; and
(2) warned of the behavior that can transmit HIV.
As added by P.L.1-1990, SEC.345. Amended by P.L.1-1991, SEC.195; P.L.2-1993, SEC.181; P.L.21-1994, SEC.2; P.L.1-1997, SEC.145; P.L.210-1997, SEC.1; P.L.1-1998, SEC.195; P.L.51-1998, SEC.4; P.L.71-1998, SEC.1; P.L.31-1998, SEC.1; P.L.183-1999, SEC.1; P.L.17-2001, SEC.12; P.L.280-2001, SEC.51; P.L.133-2002, SEC.61; P.L.221-2003, SEC.16.

IC 35-38-1-7.7
Crime of domestic violence; sentences procedures
Sec. 7.7. (a) At the time of sentencing, a court shall determine whether a person has committed a crime of domestic violence (as defined in IC 35-41-1-6.3).
(b) A determination under subsection (a) must be based upon:
(1) evidence introduced at trial; or
(2) a factual basis provided as part of a guilty plea.
(c) Upon determining that a defendant has committed a crime of domestic violence, a court shall advise the defendant of the consequences of this finding.

(d) A judge shall record a determination that a defendant has committed a crime of domestic violence on a form prepared by the division of state court administration.
As added by P.L.195-2003, SEC.4.

IC 35-38-2
Chapter 2. Probation

IC 35-38-2-1
Conditions of probation; advice on violation specification in record; administrative costs; transfer of three percent of probation user's fee; administrative fee; user's fee; collection of administrative fee; disposition of money collected; supplemental adult probation services fund; payment by credit card; credit card service fee
Sec. 1. (a) Whenever it places a person on probation, the court shall:
(1) specify in the record the conditions of the probation; and
(2) advise the person that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:
(A) One (1) year after the termination of probation.
(B) Forty-five (45) days after the state receives notice of the violation.
(b) In addition, if the person was convicted of a felony and is placed on probation, the court shall order the person to pay to the probation department the user's fee prescribed under subsection (c). If the person was convicted of a misdemeanor, the court may order the person to pay the user's fee prescribed under subsection (d). The court may:
(1) modify the conditions (except a fee payment may only be modified as provided in section 1.7(b) of this chapter); or
(2) terminate the probation;
at any time. If the person commits an additional crime, the court may revoke the probation.
(c) If a clerk of a court collects a probation user's fee, the clerk:
(1) may keep not more than three percent (3%) of the fee to defray the administrative costs of collecting the fee and shall deposit any fee kept under this subsection in the clerk's record perpetuation fund established under IC 33-19-6-1.5; and
(2) if requested to do so by the county auditor, city fiscal officer, or town fiscal officer under clause (A), (B), or (C), transfer not more than three percent (3%) of the fee to the:
(A) county auditor, who shall deposit the money transferred under this subdivision into the county general fund;
(B) city general fund when requested by the city fiscal officer; or
(C) town general fund when requested by the town fiscal officer.
(d) In addition to any other conditions of probation, the court shall order each person convicted of a felony to pay:
(1) not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) as an initial probation user's fee;
(2) a monthly probation user's fee of not less than fifteen dollars ($15) nor more than thirty dollars ($30) for each month that the
person remains on probation;
(3) the costs of the laboratory test or series of tests to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV) if such tests are required by the court under section 2.3 of this chapter;
(4) an alcohol abuse deterrent fee and a medical fee set by the court under IC 9-30-9-8, if the court has referred the defendant to an alcohol abuse deterrent program; and
(5) an administrative fee of one hundred dollars ($100);
to either the probation department or the clerk.
(e) In addition to any other conditions of probation, the court may order each person convicted of a misdemeanor to pay:
(1) not more than a fifty dollar ($50) initial probation user's fee;

(2) a monthly probation user's fee of not less than ten dollars ($10) nor more than twenty dollars ($20) for each month that the person remains on probation;
(3) the costs of the laboratory test or series of tests to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV) if such tests are required by the court under section 2.3 of this chapter; and
(4) an administrative fee of fifty dollars ($50);
to either the probation department or the clerk.
(f) The probation department or clerk shall collect the administrative fees under subsections (d)(5) and (e)(4) before collecting any other fee under subsection (d) or (e). All money collected by the probation department or the clerk under this section shall be transferred to the county treasurer who shall deposit the money into the county supplemental adult probation services fund. The fiscal body of the county shall appropriate money from the county supplemental adult probation services fund:
(1) to the county, superior, circuit, or municipal court of the county that provides probation services to adults to supplement adult probation services; and
(2) to supplement the salaries of probation officers in accordance with the schedule adopted by the county fiscal body under IC 36-2-16.5.
(g) The probation department or clerk shall collect the administrative fee under subsection (e)(4) before collecting any other fee under subsection (e). All money collected by the probation department or the clerk of a city or town court under this section shall be transferred to the fiscal officer of the city or town for deposit into the local supplemental adult probation services fund. The fiscal body of the city or town shall appropriate money from the local supplemental adult probation services fund to the city or town court of the city or town for the court's use in providing probation services to adults or for the court's use for other purposes as may be appropriated by the fiscal body. Money may be appropriated under this subsection only to those city or town courts that have an adult
probation services program. If a city or town court does not have such a program, the money collected by the probation department must be transferred and appropriated as provided under subsection (f).
(h) Except as provided in subsection (j), the county or local supplemental adult probation services fund may be used only to supplement probation services and to supplement salaries for probation officers. A supplemental probation services fund may not be used to replace other funding of probation services. Any money remaining in the fund at the end of the year does not revert to any other fund but continues in the county or local supplemental adult probation services fund.
(i) A person placed on probation for more than one (1) crime:
(1) may be required to pay more than one (1) initial probation user's fee; and
(2) may not be required to pay more than one (1) monthly probation user's fee per month;
to the probation department or the clerk.
(j) This subsection applies to a city or town located in a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000). Any money remaining in the local supplemental adult probation services fund at the end of the local fiscal year may be appropriated by the city or town fiscal body to the city or town court for use by the court for purposes determined by the fiscal body.
(k) In addition to other methods of payment allowed by law, a probation department may accept payment of fees required under this section and section 1.5 of this chapter by credit card (as defined in IC 14-11-1-7). The liability for payment is not discharged until the probation department receives payment or credit from the institution responsible for making the payment or credit.
(l) The probation department may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the probation department or charged directly to the probation department's account, the probation department may collect a credit card service fee from the person using the bank or credit card. The fee collected under this subsection is a permitted additional charge to the money the probation department is required to collect under subsection (d) or (e).
(m) The probation department shall forward the credit card service fees collected under subsection (l) to the county treasurer or city or town fiscal officer in accordance with subsection (f) or (g). These funds may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.
As added by P.L.311-1983, SEC.3. Amended by P.L.182-1984, SEC.1; P.L.296-1985, SEC.2; P.L.178-

1986, SEC.2; P.L.305-1987, SEC.36; P.L.123-1988, SEC.28; P.L.67-1990, SEC.10; P.L.1-1991, SEC.196; P.L.18-1995, SEC.112; P.L.216-1996, SEC.14;
P.L.117-1996, SEC.4; P.L.117-1996, SEC.6; P.L.170-2002, SEC.132; P.L.277-2003, SEC.11.

IC 35-38-2-1.5
Increased probation user's fee
Sec. 1.5. Notwithstanding the probation user's fee amounts established under section 1 of this chapter, a court may order a person to pay a probation user's fee that exceeds the maximum amount allowed under section 1 of this chapter if:
(1) the person was placed on probation in another state and moved or was transferred to Indiana;
(2) the other state allows a higher probation user's fee than the maximum amount allowed under section 1 of this chapter; and
(3) the probation user's fee the court orders the person to pay does not exceed the maximum amount allowed in the other state.
As added by P.L.277-2003, SEC.12.

IC 35-38-2-1.7
Early payment of probation user's fee; recalculation of probation user's fee; discharge; wage garnishment; withholding driving privileges
Sec. 1.7. (a) A person may pay a monthly probation user's fee under section 1 or 1.5 of this chapter before the date the payment is required to be made without obtaining the prior approval of a court or a probation department. However, if the person is discharged from probation before the date the person was scheduled to be released from probation, any monthly probation user's fee paid in advance by the person may not be refunded.
(b) A probation department may petition a court to:
(1) impose a probation user's fee on a person; or
(2) increase a person's probation user's fee;
under section 1 or 1.5 of this chapter if the financial ability of the person to pay a probation user's fee changes while the person is on probation.
(c) An order to pay a probation user's fee under section 1 or 1.5 of this chapter:
(1) is a judgment lien that:
(A) attaches to the property of the person subject to the order;
(B) may be perfected;
(C) may be enforced to satisfy any payment that is delinquent under section 1 or 1.5 of this chapter; and
(D) expires;
in the same manner as a judgment lien created in a civil proceeding;
(2) is not discharged by the completion of the person's probationary period or other sentence imposed on the person; and
(3) is not discharged by the liquidation of a person's estate by a
receiver under IC 32-30-5.
(d) If a court orders a person to pay a probation user's fee under section 1 or 1.5 of this chapter, the court may garnish the wages, salary, and other income earned by the person to enforce the order.
(e) If:
(1) a person is delinquent in paying the person's probation user's fees required under section 1 or 1.5 of this chapter; and
(2) the person's driver's license or permit has been suspended or revoked or the person has never been issued a driver's license or permit;
the court may order the bureau of motor vehicles to not issue a driver's license or permit to the person until the person has paid the person's delinquent probation user's fees.
As added by P.L.277-2003, SEC.13.

IC 35-38-2-2.1
Sec. 2.1. As a condition of probation for a person who is found to have:
(1) committed an offense under IC 9-30-5; or
(2) been adjudicated a delinquent for an act that would be an offense under IC 9-30-5, if committed by an adult;

the court shall require the person to pay the alcohol and drug countermeasures fee under IC 33-19.
As added by P.L.126-1989, SEC.28. Amended by P.L.2-1991, SEC.104.

IC 35-38-2-2.3
Conditions of probation; statement of conditions; term of imprisonment; intermittent service; transfers and retransfers of supervision
Sec. 2.3. (a) As a condition of probation, the court may require a person to do a combination of the following:
(1) Work faithfully at suitable employment or faithfully pursue a course of study or vocational training that will equip the person for suitable employment.
(2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.
(3) Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.
(4) Support the person's dependents and meet other family responsibilities.
(5) Make restitution or reparation to the victim of the crime for damage or injury that was sustained by the victim. When restitution or reparation is a condition of probation, the court shall fix the amount, which may not exceed an amount the person can or will be able to pay, and shall fix the manner of performance.
(6) Execute a repayment agreement with the appropriate governmental entity to repay the full amount of public relief or assistance wrongfully received, and make repayments according to a repayment schedule set out in the agreement.
(7) Pay a fine authorized by IC 35-50.
(8) Refrain from possessing a firearm or other deadly weapon unless granted written permission by the court or the person's probation officer.
(9) Report to a probation officer at reasonable times as directed by the court or the probation officer.
(10) Permit the person's probation officer to visit the person at reasonable times at the person's home or elsewhere.
(11) Remain within the jurisdiction of the court, unless granted permission to leave by the court or by the person's probation officer.
(12) Answer all reasonable inquiries by the court or the person's probation officer and promptly notify the court or probation officer of any change in address or employment.
(13) Perform uncompensated work that benefits the community.
(14) Satisfy other conditions reasonably related to the person's rehabilitation.
(15) Undergo home detention under IC 35-38-2.5.
(16) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:
(A) the person had been convicted of a sex crime listed in IC 35-38-1-7.1(e) and the crime created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV) as described in
IC 35-38-1-7.1(b)(8); or
(B) the person had been convicted of an offense related to a controlled substance listed in IC 35-38-1-7.1(f) and the offense involved the conditions described in IC 35-38-1-7.1(b)(9)(A).
(17) Refrain from any direct or indirect contact with an individual.
(18) Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs incurred because of the taking, detention, or return of a missing child (as defined in IC 10-13-5-4).
(19) Periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is responsible for any charges resulting from a test and shall have the results of any test under this subdivision reported to the person's probation officer by the laboratory.
(20) If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments under the plan to the authority that operates the penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:
(A) may not exceed an amount the person can or will be able to pay;
(B) does not harm the person's ability to reasonably be self supporting or to reasonably support any

dependent of the person; and
(C) takes into consideration and gives priority to any other restitution, reparation, repayment, or fine the person is required to pay under this section.
(21) Refrain from owning, harboring, or training an animal.
(b) When a person is placed on probation, the person shall be given a written statement specifying:
(1) the conditions of probation; and
(2) that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:
(A) One (1) year after the termination of probation.
(B) Forty-five (45) days after the state receives notice of the violation.
(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.
(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one
(1) year. A person does not earn credit time while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:
(1) the term of imprisonment;
(2) the days or parts of days during which a person is to be confined; and
(3) the conditions.
(e) Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.
(f) When a court imposes a condition of probation described in subsection (a)(17):
(1) the clerk of the court shall comply with IC 5-2-9; and
(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.
As added by P.L.1-1991, SEC.198. Amended by P.L.2-1992, SEC.879; P.L.23-1994, SEC.16; P.L.1-1995, SEC.75; P.L.293-1995, SEC.1; P.L.76-2002, SEC.1; P.L.2-2003, SEC.91.

IC 35-41

ARTICLE 41. SUBSTANTIVE CRIMINAL PROVISIONS

IC 35-41-1-11

Sec. 11. "Forcible felony" means a felony that involves the use or threat of force against a human being, or in which there is imminent danger of bodily injury to a human being.
As added by P.L.311-1983, SEC.12.

IC 35-41-2

Chapter 2. Basis of Criminal Liability

IC 35-41-2-5

Sec. 5. Intoxication is not a defense in a prosecution for an offense and may not be taken into consideration in determining the existence of a mental state that is an element of the offense unless the defendant meets the requirements of IC 35-41-3-5.
As added by P.L.210-1997, SEC.3.

IC 35-41-3

Chapter 3. Defenses Relating to Culpability

IC 35-41-3-5

YAMD.1997
Sec. 5. It is a defense that the person who engaged in the prohibited conduct did so while he was intoxicated, only if the intoxication resulted from the introduction of a substance into his body:
(1) without his consent; or
(2) when he did not know that the substance might cause intoxication.
As added by Acts 1976, P.L.148, SEC.1. Amended by Acts 1977, P.L.340, SEC.10; Acts 1980, P.L.205, SEC.1; P.L.210-1997, SEC.4.

IC 35-41-3-6
Sec. 6. (a) A person is not responsible for having engaged in prohibited conduct if, as a result of mental disease or defect, he was unable to appreciate the wrongfulness of the conduct at the time of the offense.
(b) As used in this section, "mental disease or defect" means a severely abnormal mental condition that grossly and demonstrably impairs a person's perception, but the term does not include an abnormality manifested only by repeated unlawful or antisocial conduct.
As added by Acts 1976, P.L.148, SEC.1. Amended by Acts 1977, P.L.340, SEC.11; P.L.184-1984, SEC.1.

IC 35-41-3-11
Sec. 11. (a) As used in this section, "defendant" refers to an individual charged with any crime involving the use of force against a person.
(b) This section applies under the following circumstances when the defendant in a prosecution raises the issue that the defendant was at the time of the alleged crime suffering from the effects of battery as a result of the past course of conduct of the individual who is the victim of the alleged crime:
(1) The defendant raises the issue that the defendant was not responsible as a result of mental disease or defect under section 6 of this chapter, rendering the defendant unable to appreciate the wrongfulness of the conduct at the time of the crime.
(2) The defendant claims to have used justifiable reasonable force under section 2 of this chapter. The defendant has the burden of going forward to produce evidence from which a trier of fact could find support for the reasonableness of the defendant's belief in the imminence of the use of unlawful force or, when deadly force is employed, the imminence of serious bodily injury to the defendant or a third person or the commission of a forcible felony.
(c) If a defendant proposes to claim the use of justifiable reasonable force under subsection (b)(2), the defendant must file a written motion of that intent with the trial court not later than:
(1) twenty (20) days if the defendant is charged with a felony; or
(2) ten (10) days if the defendant is charged only with one (1) or more misdemeanors;
before the omnibus date. However, in the interest of justice and upon a showing of good cause, the court may permit the filing to be made at any time before the commencement of the trial.
(d) The introduction of any expert testimony under this section shall be in accordance with the Indiana Rules of Evidence.
As added by P.L.210-1997, SEC.5.

IC 35-41-4
Chapter 4. Standard of Proof and Bars to Prosecution

IC 35-41-4-1
Sec. 1. (a) A person may be convicted of an offense only if his guilt is proved beyond a reasonable doubt.
(b) Notwithstanding subsection (a), the burden of proof is on the defendant to establish the defense of insanity (IC 35-41-3-6) by a preponderance of the evidence.
As added by Acts 1976, P.L.148, SEC.1. Amended by Acts 1977, P.L.340, SEC.16; Acts 1978, P.L.145, SEC.9.

IC 35-42
ARTICLE 42. OFFENSES AGAINST THE PERSON

IC 35-42-1
Chapter 1. Homicide

IC 35-42-1-0.5
Sec. 0.5. Sections 1, 3, and 4 of this chapter do not apply to an abortion performed in compliance with:
(1) IC 16-34; or
(2) IC 35-1-58.5 (before its repeal).
As added by P.L.261-1997, SEC.2.
IC 35-42-1-1
Sec. 1. A person who:
(1) knowingly or intentionally kills another human being;
(2) kills another human being while committing or attempting to commit arson, burglary, child molesting, consumer product tampering, criminal deviate conduct, kidnapping, rape, robbery, or carjacking;
(3) kills another human being while committing or attempting to commit:
(A) dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1);
(B) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);
(C) dealing in a schedule IV controlled substance (IC 35-48-4-3); or
(D) dealing in a schedule V controlled substance; or
(4) knowingly or intentionally kills a fetus that has attained viability (as defined in IC 16-18-2-365);
commits murder, a felony.
As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.25; P.L.326-1987, SEC.2; P.L.296-1989, SEC.1; P.L.230-1993, SEC.2; P.L.261-1997, SEC.3; P.L.17-2001, SEC.15.
IC 35-42-1-2
Sec. 2. A person who intentionally causes another human being, by force, duress, or deception, to commit suicide commits causing suicide, a Class B felony.
As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.26.
IC 35-42-1-2.5
Sec. 2.5. (a) This section does not apply to the following:
(1) A licensed health care provider who administers, prescribes, or dispenses medications or procedures to relieve a person's pain or discomfort, even if the medication or procedure may hasten or increase the risk of death, unless such medications or procedures are intended to cause death.
(2) The withholding or withdrawing of medical treatment or life-prolonging procedures by a licensed health care provider,
including pursuant to IC 16-36-4 (living wills and life-prolonging procedures), IC 16-36-1 (health care consent), or IC 30-5 (power of attorney).
(b) A person who has knowledge that another person intends to commit or attempt to commit suicide and who intentionally does either of the following commits assisting suicide, a Class C felony:
(1) Provides the physical means by which the other person attempts or commits suicide.
(2) Participates in a physical act by which the other person attempts or commits suicide.
As added by P.L.246-1993, SEC.1. Amended by P.L.1-1994, SEC.167.
IC 35-42-1-3
Sec. 3. (a) A person who knowingly or intentionally:
(1) kills another human being; or
(2) kills a fetus that has attained viability (as defined in IC 16-18-2-365);
while acting under sudden heat commits voluntary manslaughter, a Class B felony. However, the offense is a Class A felony if it is committed by means of a deadly weapon.
(b) The existence of sudden heat is a mitigating factor that reduces what otherwise would be murder under section 1(1) of this chapter to voluntary manslaughter.
As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.27; P.L.321-1987, SEC.1; P.L.261-1997, SEC.4.
IC 35-42-1-4
Sec. 4. (a) As used in this section, "child care provider" means a person who provides child care in or on behalf of:
(1) a child care center (as defined in IC 12-7-2-28.4); or
(2) a child care home (as defined in IC 12-7-2-28.6);
regardless of whether the child care center or child care home is licensed.
(b) As used in this section, "fetus" means a fetus that has attained viability (as defined in IC 16-18-2-365).
(c) A person who kills another human being while committing or attempting to commit:
(1) a Class C or Class D felony that inherently poses a risk of serious bodily injury;

(2) a Class A misdemeanor that inherently poses a risk of serious bodily injury; or
(3) battery; commits involuntary manslaughter, a Class C felony. However, if the killing results from the operation of a vehicle, the offense is a Class D felony.
(d) A person who kills a fetus while committing or attempting to commit:
(1) a Class C or Class D felony that inherently poses a risk of serious bodily injury;
(2) a Class A misdemeanor that inherently poses a risk of serious bodily injury; or
(3) battery;
commits involuntary manslaughter, a Class C felony. However, if the killing results from the operation of a vehicle, the offense is a Class D felony.
(e) If:
(1) a child care provider recklessly supervises a child; and
(2) the child dies as a result of the child care provider's reckless supervision;
the child care provider commits involuntary manslaughter, a Class D felony.
As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.28; P.L.261-1997, SEC.5; P.L.133-2002, SEC.65.

IC 35-42-1-5

Sec. 5. A person who recklessly kills another human being commits reckless homicide, a Class C felony.
As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.29; Acts 1980, P.L.83, SEC.6.

IC 35-42-1-6

Sec. 6. A person who knowingly or intentionally terminates a human pregnancy with an intention other than to produce a live birth or to remove a dead fetus commits feticide, a Class C felony. This section does not apply to an abortion performed in compliance with:
(1) IC 16-34; or
(2) IC 35-1-58.5 (before its repeal).
As added by Acts 1979, P.L.153, SEC.3. Amended by P.L.2-1995, SEC.126.

IC 35-42-1-7

Sec. 7. (a) As used in this section, "component" means plasma, platelets, or serum of a human being.
(b) A person who recklessly, knowingly, or intentionally donates, sells, or transfers blood, a blood component, or semen for artificial insemination (as defined in IC 16-41-14-2) that contains the human immunodeficiency virus (HIV) commits transferring contaminated body fluids, a Class C felony.
(c) However, the offense is a Class A felony if it results in the transmission of the human immunodeficiency virus (HIV) to any person other than the defendant.
(d) This section does not apply to:
(1) a person who, for reasons of privacy, donates, sells, or transfers blood or a blood component at a blood center (as defined in IC 16-41-12-3) after the person has notified the blood center that the blood or blood component must be disposed of and may not be used for any purpose; or
(2) a person who transfers blood, a blood component, semen, or another body fluid that contains the human immunodeficiency virus (HIV) for research purposes.
As added by P.L.123-1988, SEC.30. Amended by P.L.184-1989, SEC.27; P.L.2-1993, SEC.184.

IC 35-42-1-8

Sec. 8. (a) The sale or distribution of:
(1) diagnostic testing equipment or apparatus; or
(2) a blood collection kit;
intended for home use to diagnose or confirm human immunodeficiency virus (HIV) infection or disease is prohibited unless the testing equipment, apparatus, or kit has been approved for such use by the federal Food and Drug Administration.
(b) A person who violates this section commits a Class A misdemeanor.
As added by P.L.184-1989, SEC.28.

IC 35-42-1-9

Sec. 9. (a) Except as provided in this section, a person who recklessly violates or fails to comply with IC 16-41-7 commits a Class B misdemeanor.
(b) A person who knowingly or intentionally violates or fails to comply with IC 16-41-7-1 commits a Class D felony.
(c) Each day a violation described in this section continues constitutes a separate offense.
As added by P.L.31-1998, SEC.2.

IC 35-42-2
Chapter 2. Battery and Related Offenses

IC 35-42-2-1
Battery
Sec. 1. (a) A person who knowingly or intentionally touches another person in a rude, insolent, or angry manner commits battery, a Class B misdemeanor. However, the offense is:
(1) a Class A misdemeanor if:
(A) it results in bodily injury to any other person;
(B) it is committed against a law enforcement officer or against a person summoned and directed by the officer while the officer is engaged in the execution of his official duty;
(C) it is committed against an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;
(D) it is committed against a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty; or
(E) it is committed against a community policing volunteer:
(i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or
(ii) because the person is a community policing volunteer;
(2) a Class D felony if it results in bodily injury to:
(A) a law enforcement officer or a person summoned and directed by a law enforcement officer while the officer is engaged in the execution of his official duty;
(B) a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;
(C) a person of any age who is mentally or physically disabled and is committed by a person having the care of the mentally or physically disabled person, whether the care is assumed voluntarily or because of a legal obligation;
(D) the other person and the person who commits the battery was previously convicted of a battery in which the victim was the other person;
(E) an endangered adult (as defined in IC 12-10-3-2);
(F) an employee of the department of correction while the employee is engaged in the execution of the employee's official duty;
(G) an employee of a school corporation while the employee is engaged in the execution of the employee's official duty;
(H) a correctional professional while the correctional professional is engaged in the execution of the correctional professional's official duty;
(I) a person who is a health care provider (as defined in IC 16-18-2-163) while the health care provider is engaged in the execution of the health care provider's official duty;
(J) an employee of a penal facility or a juvenile detention
facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;
(K) a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty; or
(L) a community policing volunteer:
(i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or
(ii) because the person is a community policing volunteer;
(3) a Class C felony if it results in serious bodily injury to any other person or if it is committed by means of a deadly weapon;
(4) a Class B felony if it results in serious bodily injury to a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;
(5) a Class A felony if it results in the death of a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;
(6) a Class C felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2); and
(7) a Class B felony if it results in the death of an endangered adult (as defined in IC 12-10-3-2).
(b) For purposes of this section:
(1) "law enforcement officer" includes an alcoholic beverage enforcement officer; and

(2) "correctional professional" means a:
(A) probation officer;
(B) parole officer;
(C) community corrections worker; or
(D) home detention officer.
As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.30; Acts 1979, P.L.298, SEC.1; Acts 1979, P.L.83, SEC.10; Acts 1981, P.L.299, SEC.1; P.L.185-1984, SEC.1; P.L.205-1986, SEC.1; P.L.322-1987, SEC.1; P.L.164-1993, SEC.10; P.L.59-1995, SEC.2; P.L.31-1996, SEC.20; P.L.32-1996, SEC.20; P.L.255-1996, SEC.25; P.L.212-1997, SEC.1; P.L.37-1997, SEC.2; P.L.56-1999, SEC.1; P.L.188-1999, SEC.5; P.L.43-2000, SEC.1; P.L.222-2001, SEC.4; P.L.175-2003, SEC.2.

IC 35-42-2-1.3
Domestic battery
Sec. 1.3. (a) A person who knowingly or intentionally touches an individual who:
(1) is or was a spouse of the other person;
(2) is or was living as if a spouse of the other person as provided in subsection (b); or
(3) has a child in common with the other person;
in a rude, insolent, or angry manner that results in bodily injury to the person described in subdivision (1), (2), or (3) commits domestic battery, a Class A misdemeanor. However, the offense is a Class D felony if the person has a previous, unrelated conviction under this
section (or IC 35-42-2-1(a)(2)(E) before its repeal).
(b) In considering whether a person is or was living as a spouse of another individual in subsection (a)(2), the court shall review the following:
(1) the duration of the relationship;
(2) the frequency of contact;
(3) the financial interdependence;
(4) whether the two (2) individuals are raising children together;
(5) whether the two (2) individuals have engaged in tasks directed toward maintaining a common household; and
(6) other factors the court considers relevant.
As added by P.L.188-1999, SEC.6. Amended by P.L.47-2000, SEC.3; P.L.221-2003, SEC.18.

IC 35-42-2-2
Criminal recklessness; element of hazing; liability barred for good faith report or judicial participation
Sec. 2. (a) As used in this section, "hazing" means forcing or requiring another person:
(1) with or without the consent of the other person; and
(2) as a condition of association with a group or organization;
to perform an act that creates a substantial risk of bodily injury.
(b) A person who recklessly, knowingly, or intentionally performs:
(1) an act that creates a substantial risk of bodily injury to another person; or
(2) hazing;
commits criminal recklessness. Except as provided in subsection (c), criminal recklessness is a Class B misdemeanor.
(c) The offense of criminal recklessness as defined in subsection (b) is:
(1) a Class A misdemeanor if the conduct includes the use of a vehicle;
(2) a Class D felony if it is committed while armed with a deadly weapon; or
(3) a Class C felony if it is committed by shooting a firearm from a vehicle into an inhabited dwelling or other building or
place where people are likely to gather.
(d) A person who recklessly, knowingly, or intentionally:
(1) inflicts serious bodily injury on another person; or
(2) performs hazing that results in serious bodily injury to a person;
commits criminal recklessness, a Class D felony. However, the offense is a Class C felony if committed by means of a deadly weapon.
(e) A person, other than a person who has committed an offense under this section or a delinquent act that

would be an offense under this section if the violator was an adult, who:
(1) makes a report of hazing in good faith;
(2) participates in good faith in a judicial proceeding resulting from a report of hazing;
(3) employs a reporting or participating person described in subdivision (1) or (2); or
(4) supervises a reporting or participating person described in subdivision (1) or (2);
is not liable for civil damages or criminal penalties that might otherwise be imposed because of the report or participation.
(f) A person described in subsection (e)(1) or (e)(2) is presumed to act in good faith.
(g) A person described in subsection (e)(1) or (e)(2) may not be treated as acting in bad faith solely because the person did not have probable cause to believe that a person committed:
(1) an offense under this section; or
(2) a delinquent act that would be an offense under this section if the offender was an adult.
As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.31; Acts 1981, P.L.300, SEC.1; P.L.323-1987, SEC.1; P.L.216-1996, SEC.17; P.L.1-2003, SEC.94.

IC 35-42-2-3
Sec. 3. A person who recklessly, knowingly, or intentionally engages in conduct that is likely to provoke a reasonable man to commit battery commits provocation, a Class C infraction.
As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.32.
IC 35-42-2-4
Sec. 4. (a) A person who recklessly, knowingly, or intentionally obstructs vehicular or pedestrian traffic commits obstruction of traffic, a Class B misdemeanor.
(b) The offense described in subsection (a) is:
(1) a Class A misdemeanor if the offense includes the use of a motor vehicle; and
(2) a Class D felony if the offense results in serious bodily injury.
As added by P.L.92-1988, SEC.7.
IC 35-42-2-5
Sec. 5. (a) As used in this section, "overpass" means a bridge or other structure designed to carry vehicular or pedestrian traffic over any roadway, railroad track, or waterway.
(b) A person who knowingly, intentionally, or recklessly:
(1) drops, causes to drop, or throws an object from an overpass; or
(2) with intent that the object fall, places on an overpass an object that falls off the overpass;
causing bodily injury to another person commits overpass mischief, a Class C felony. However, the offense is a Class B felony if it results in serious bodily injury to another person.
As added by P.L.297-1995, SEC.1.
IC 35-42-2-5.5
Sec. 5.5. A person who recklessly, knowingly, or intentionally:
(1) removes an appurtenance from a railroad signal system, resulting in damage or impairment of the operation of the railroad signal system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal on a railroad owned, leased, or operated by a railroad carrier without consent of the railroad carrier involved;
(2) tampers with or obstructs a switch, a frog, a rail, a roadbed, a crosstie, a viaduct, a bridge, a trestle, a culvert, an embankment, a structure, or an appliance pertaining to or connected with a railroad carrier without consent of the railroad carrier involved; or
(3) steals, removes, alters, or interferes with a journal bearing, a brass, a waste, a packing, a triple valve, a pressure cock, a brake, an air hose, or another part of the operating mechanism of a locomotive, an engine, a tender, a coach, a car, a caboose, or a motor car used or capable of being used by a railroad carrier in Indiana without consent of the railroad carrier;
commits railroad mischief, a Class D felony. However, the offense is a Class C felony if it results in serious bodily injury to another person and a Class B felony if it results in the death of another person.
As added by P.L.259-1999, SEC.2.
IC 35-42-2-6
Sec. 6. (a) As used in this section, "corrections officer" includes a person employed by:
(1) the department of correction;
(2) a law enforcement agency; or
(3) a county jail.

(b) As used in this section, "human immunodeficiency virus (HIV)" includes acquired immune deficiency syndrome (AIDS) and AIDS related complex.
(c) A person who knowingly or intentionally in a rude, insolent, or angry manner places blood or another body fluid or waste on a law enforcement officer or a corrections officer identified as such and while engaged in the performance of official duties or coerces another person to place blood or another body fluid or waste on the law enforcement officer or corrections officer commits battery by body waste, a Class D felony. However, the offense is:
(1) a Class C felony if the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with:
(A) hepatitis B;
(B) HIV; or
(C) tuberculosis;
(2) a Class B felony if:
(A) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with hepatitis B and the offense results in the transmission of hepatitis B to the other person; or
(B) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with tuberculosis and the offense results in the transmission of tuberculosis to the other person; and
(3) a Class A felony if:
(A) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with HIV; and
(B) the offense results in the transmission of HIV to the other person.
(d) A person who knowingly or intentionally in a rude, an insolent, or an angry manner places human blood, semen, urine, or fecal waste on another person commits battery by body waste, a Class A misdemeanor. However, the offense is:
(1) a Class D felony if the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with:
(A) hepatitis B;
(B) HIV; or
(C) tuberculosis;
(2) a Class C felony if:
(A) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with hepatitis B and the offense results in the transmission of hepatitis B to the other person; or
(B) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with tuberculosis and the offense results in the transmission of tuberculosis to the other person; and
(3) a Class B felony if:
(A) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with HIV; and
(B) the offense results in the transmission of HIV to the other person.
As added by P.L.298-1995, SEC.1. Amended by P.L.88-2002, SEC.1.

IC 35-42-2-7

Sec. 7. (a) As used in this section, "tattoo" means:
(1) any indelible design, letter, scroll, figure, symbol, or other mark placed with the aid of needles or other instruments; or
(2) any design, letter, scroll, figure, or symbol done by scarring;
upon or under the skin.
(b) As used in this section, "body piercing" means the perforation of any human body part other than an earlobe for the purpose of inserting jewelry or other decoration or for some other nonmedical purpose.
(c) Except as provided in subsection (e), a person who provides a tattoo to a person who is less than eighteen (18) years of age commits tattooing a minor, a Class A misdemeanor.
(d) This subsection does not apply to an act of a health care professional (as defined in IC 16-27-2-1) licensed under IC 25 when the act is performed in the course of the health care professional's practice. Except as provided in subsection (e), a person who performs body piercing upon a person who is less than eighteen (18) years of age commits body piercing a minor, a Class A misdemeanor.
(e) A person may provide a tattoo to a person who is less than eighteen (18) years of age or perform body piercing upon a person who is less than eighteen (18) years of age if a parent or legal guardian of the person receiving the tattoo or undergoing the body piercing:

(1) is present at the time the tattoo is provided or the body piercing is performed; and
(2) provides written permission for the person to receive the tattoo or undergo the body piercing.
(f) Notwithstanding IC 36-1-3-8(a), a unit (as defined in IC 36-1-2-23) may adopt an ordinance that is at least as restrictive or more restrictive than this section or a rule adopted under IC 16-19-3-4.1 or IC 16-19-3-4.2.
As added by P.L.181-1997, SEC.3. Amended by P.L.166-1999, SEC.2.

IC 35-42-3
Chapter 3. Kidnapping and Confinement

IC 35-43-1-2
Criminal mischief; penalties
Sec. 2. (a) A person who:
(1) recklessly, knowingly, or intentionally damages or defaces property of another person without the other person's consent; or
(2) knowingly or intentionally causes another to suffer pecuniary loss by deception or by an expression of intention to injure another person or to damage the property or to impair the rights of another person;
commits criminal mischief, a Class B misdemeanor. However, the offense is:
(A) a Class A misdemeanor if:
(i) the pecuniary loss is at least two hundred fifty dollars ($250) but less than two thousand five hundred dollars ($2,500);
(ii) the property damaged was a moving motor vehicle;
(iii) the property damaged or defaced was a copy of the sex and violent offender directory (IC 5-2-6-3) and the person is not a sex offender or was not required to register as a sex offender;
(iv) the property damaged was a locomotive, a railroad car, a train, or equipment of a railroad company being operated on a railroad right-of-way;
(v) the property damaged was a part of any railroad signal system, train control system, centralized dispatching system, or highway railroad grade crossing warning signal on a railroad right-of-way owned, leased, or operated by a railroad company;
(vi) the property damaged was any rail, switch, roadbed, viaduct, bridge, trestle, culvert, or embankment on a right-of-way owned, leased, or operated by a railroad company; or
(vii) the property damage or defacement was caused by paint or other markings; and
(B) a Class D felony if:
(i) the pecuniary loss is at least two thousand five hundred dollars ($2,500);
(ii) the damage causes a substantial interruption or impairment of utility service rendered to the public;
(iii) the damage is to a public record;
(iv) the property damaged or defaced was a copy of the sex and violent offender directory (IC 5-2-6-3) and the person is a sex offender or was required to register as a sex offender;
(v) the damage causes substantial interruption or impairment of work conducted in a scientific research facility;
(vi) the damage is to a law enforcement animal (as defined in IC 35-46-3-4.5); or
(vii) the damage causes substantial interruption or impairment of work conducted in a food processing facility.
(b) A person who recklessly, knowingly, or intentionally damages:
(1) a structure used for religious worship;
(2) a school or community center;
(3) the grounds:
(A) adjacent to; and
(B) owned or rented in common with;
a structure or facility identified in subdivision (1) or (2); or
(4) personal property contained in a structure or located at a facility identified in subdivision (1) or (2);
Without the consent of the owner, possessor, or occupant of the property that is damaged, commits institutional criminal mischief, a Class A misdemeanor. However, the offense is a Class D felony if the pecuniary loss is at least two hundred fifty dollars ($250) but less than two thousand five hundred dollars ($2,500), and a Class C felony if the pecuniary loss is at least two thousand five hundred dollars ($2,500).
(c) If a person is convicted of an offense under this section that involves the use of graffiti, the court may,

in addition to any other penalty, order that the person's operator's license be suspended or invalidated by the bureau of motor vehicles for not more than one (1) year.
(d) The court may rescind an order for suspension or invalidation under subsection (c) and allow the person to receive a license or permit before the period of suspension or invalidation ends if the court determines that:
(1) the person has removed or painted over the graffiti or has made other suitable restitution; and
(2) the person who owns the property damaged or defaced by the criminal mischief or institutional criminal mischief is satisfied with the removal, painting, or other restitution performed by the person.
As added by Acts 1976, P.L.148, SEC.3. Amended by Acts 1977, P.L.340, SEC.41; P.L.326-1983, SEC.1; P.L.319-1985, SEC.1; P.L.151-1989, SEC.11; P.L.180-1991, SEC.6; P.L.94-1996, SEC.5; P.L.213-1997, SEC.1; P.L.100-1999, SEC.2; P.L.108-2002, SEC.1; P.L.116-2002, SEC.24; P.L.123-2002, SEC.37; P.L.1-2003, SEC.95.

IC 35-42-3-1
Sec. 1. As used in this chapter, "confine" means to substantially interfere with the liberty of a person.
As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.33.
IC 35-42-3-2
Sec. 2. (a) A person who knowingly or intentionally confines another person:
(1) with intent to obtain ransom;
(2) while hijacking a vehicle;
(3) with intent to obtain the release, or intent to aid in the escape, of any person from lawful detention; or
(4) with intent to use the person confined as a shield or hostage;
commits kidnapping, a Class A felony.
(b) A person who knowingly or intentionally removes another person, by fraud, enticement, force, or threat of force, from one place to another:
(1) with intent to obtain ransom;
(2) while hijacking a vehicle;
(3) with intent to obtain the release, or intent to aid in the escape, of any person from lawful detention; or
(4) with intent to use the person removed as a shield or hostage;
commits kidnapping, a Class A felony.
As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.34; Acts 1978, P.L.144, SEC.4.
IC 35-42-3-3
Sec. 3. (a) A person who knowingly or intentionally:
(1) confines another person without the other person's consent; or
(2) removes another person, by fraud, enticement, force, or threat of force, from one (1) place to another;
commits criminal confinement. Except as provided in subsection (b), the offense of criminal confinement is a Class D felony.
(b) The offense of criminal confinement defined in subsection (a) is:
(1) a Class C felony if the person confined or removed is less than fourteen (14) years of age and is not the confining or removing person's child; and
(2) a Class B felony if it:
(A) is committed while armed with a deadly weapon;
(B) results in serious bodily injury to a person other than the confining or removing person; or
(C) is committed on an aircraft.
As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.35; Acts 1979, P.L.299, SEC.1; P.L.183-1984, SEC.2; P.L.278-1985, SEC.8; P.L.49-1989, SEC.21; P.L.59-2002, SEC.2.
IC 35-42-3-4
Sec. 4. (a) A person who knowingly or intentionally:
(1) removes another person who is less than eighteen (18) years of age to a place outside Indiana when the removal violates a child custody order of a court; or
(2) removes another person who is less than eighteen (18) years of age to a place outside Indiana and violates a child custody
order of a court by failing to return the other person to Indiana;
commits interference with custody, a Class D felony. However, the offense is a Class C felony if the other

person is less than fourteen (14) years of age and is not the person's child, and a Class B felony if the offense is committed while armed with a deadly weapon or results in serious bodily injury to another person.
(b) A person who with the intent to deprive another person of custody or visitation rights:
(1) knowingly or intentionally takes and conceals; or
(2) knowingly or intentionally detains and conceals;
a person who is less than eighteen (18) years of age commits interference with custody, a Class C misdemeanor. However, the offense is a Class B misdemeanor if the taking and concealment, or the detention and concealment, is in violation of a court order.
(c) With respect to a violation of this section, a court may consider as a mitigating circumstance the accused person's return of the other person in accordance with the child custody order within seven (7) days after the removal.
(d) The offenses described in this section continue as long as the child is concealed or detained, or both.
(e) If a person is convicted of an offense under this section, a court may impose against the defendant reasonable costs incurred by a parent or guardian of the child because of the taking, detention, or concealment of the child.
As added by P.L.49-1989, SEC.22. Amended by P.L.162-1990, SEC.1.

IC 35-42-4
Chapter 4. Sex Crimes

IC 35-42-4-1
Sec. 1. (a) Except as provided in subsection (b), a person who knowingly or intentionally has sexual intercourse with a member of the opposite sex when:
(1) the other person is compelled by force or imminent threat of force;
(2) the other person is unaware that the sexual intercourse is occurring; or
(3) the other person is so mentally disabled or deficient that consent to sexual intercourse cannot be given;
commits rape, a Class B felony.
(b) An offense described in subsection (a) is a Class A felony if:
(1) it is committed by using or threatening the use of deadly force;
(2) it is committed while armed with a deadly weapon;
(3) it results in serious bodily injury to a person other than a defendant; or
(4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.
As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.36; P.L.320-1983, SEC.23; P.L.16-1984, SEC.19; P.L.297-1989, SEC.1; P.L.31-1998, SEC.3.
IC 35-42-4-2
Sec. 2. (a) A person who knowingly or intentionally causes another person to perform or submit to deviate sexual conduct when:
(1) the other person is compelled by force or imminent threat of force;
(2) the other person is unaware that the conduct is occurring; or
(3) the other person is so mentally disabled or deficient that consent to the conduct cannot be given;
commits criminal deviate conduct, a Class B felony.
(b) An offense described in subsection (a) is a Class A felony if:
(1) it is committed by using or threatening the use of deadly force;
(2) it is committed while armed with a deadly weapon;
(3) it results in serious bodily injury to any person other than a defendant; or
(4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.
As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.37; P.L.320-1983, SEC.24; P.L.183-1984, SEC.3; P.L.31-1998, SEC.4.
IC 35-42-4-3

Sec. 3. (a) A person who, with a child under fourteen (14) years of age, performs or submits to sexual intercourse or deviate sexual conduct commits child molesting, a Class B felony. However, the offense is a Class A felony if:
(1) it is committed by a person at least twenty-one (21) years of age;
(2) it is committed by using or threatening the use of deadly force or while armed with a deadly weapon;
(3) it results in serious bodily injury; or
(4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.
(b) A person who, with a child under fourteen (14) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits child molesting, a Class C felony. However, the offense is a Class A felony if:
(1) it is committed by using or threatening the use of deadly force;
(2) it is committed while armed with a deadly weapon; or
(3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.
(c) It is a defense that the accused person reasonably believed that the child was sixteen (16) years of age or older at the time of the conduct.
As added by Acts 1976, P.L.148, SEC.2. Amended by Acts 1977, P.L.340, SEC.38; Acts 1978, P.L.82, SEC.2; Acts 1981, P.L.301, SEC.1; P.L.79-1994, SEC.12; P.L.33-1996, SEC.8; P.L.216-1996, SEC.18; P.L.31-1998, SEC.5.

IC 35-42-4-4

Sec. 4. (a) As used in this section:
"Disseminate" means to transfer possession for free or for a consideration.
"Matter" has the same meaning as in IC 35-49-1-3.
"Performance" has the same meaning as in IC 35-49-1-7.
"Sexual conduct" means sexual intercourse, deviate sexual conduct, exhibition of the uncovered genitals intended to satisfy or arouse the sexual desires of any person, sado-masochistic abuse, sexual intercourse or deviate sexual conduct with an animal, or any fondling
or touching of a child by another person or of another person by a child intended to arouse or satisfy the sexual desires of either the child or the other person.
(b) A person who knowingly or intentionally:
(1) manages, produces, sponsors, presents, exhibits, photographs, films, videotapes, or creates a digitized image of any performance or incident that includes sexual conduct by a child under eighteen (18) years of age;
(2) disseminates, exhibits to another person, offers to disseminate or exhibit to another person, or sends or brings into Indiana for dissemination or exhibition matter that depicts or describes sexual conduct by a child under eighteen (18) years of age; or
(3) makes available to another person a computer, knowing that the computer's fixed drive or peripheral device contains matter that depicts or describes sexual conduct by a child less than eighteen (18) years of age;
commits child exploitation, a Class C felony.
(c) A person who knowingly or intentionally possesses:
(1) a picture;
(2) a drawing;
(3) a photograph;
(4) a negative image;
(5) undeveloped film;
(6) a motion picture;
(7) a videotape;
(8) a digitized image; or
(9) any pictorial representation;

that depicts or describes sexual conduct by a child who is less than sixteen (16) years of age or appears to be less than sixteen (16) years of age, and that lacks serious literary, artistic, political, or scientific value commits possession of child pornography, a Class D felony.
(d) Subsections (b) and (c) do not apply to a bona fide school, museum, or public library that qualifies for certain property tax exemptions under IC 6-1.1-10, or to an employee of such a school, museum, or public library acting within the scope of the employee's employment when the possession of the listed materials are for legitimate scientific or educational purposes.
As added by Acts 1978, P.L.148, SEC.5. Amended by P.L.325-1983, SEC.1; P.L.206-1986, SEC.1; P.L.37-1990, SEC.25; P.L.59-1995, SEC.3; P.L.216-1996, SEC.19; P.L.3-2002, SEC.2.

IC 35-42-4-5

Sec. 5. (a) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to touch or fondle himself or another child under the age of sixteen (16) with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Class D felony. However, the offense is:
(1) a Class C felony if a child involved in the offense is under the age of fourteen (14);
(2) a Class B felony if:
(A) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon; or
(B) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and
(3) a Class A felony if it results in serious bodily injury.
(b) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to:
(1) engage in sexual intercourse with another child under sixteen (16) years of age;
(2) engage in sexual conduct with an animal other than a human being; or
(3) engage in deviate sexual conduct with another person;
with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Class C felony. However, the offense is a Class B felony if any child involved in the offense is less than fourteen (14) years of age, and it is a Class A felony if the offense is committed by using or threatening the use of deadly force, if it is committed while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.
(c) A person eighteen (18) years of age or older who knowingly or intentionally touches or fondles himself in the presence of a child less than fourteen (14) years of age with the intent to arouse or satisfy the sexual desires of the child or the older person commits fondling in the presence of a minor, a Class D felony.
As added by P.L.183-1984, SEC.4. Amended by P.L.79-1994, SEC.13; P.L.31-1998, SEC.6; P.L.118-2002, SEC.1.

IC 35-42-4-6

Sec. 6. (a) As used in this section, "solicit" means to command, authorize, urge, incite, request, or advise an individual:
(1) in person;
(2) by telephone;
(3) in writing;
(4) by using a computer network (as defined in IC 35-43-2-3(a));
(5) by advertisement of any kind; or
(6) by any other means;
to perform an act described in subsection (b).
(b) A person eighteen (18) years of age or older who knowingly or intentionally solicits a child under fourteen (14) years of age, or an individual the person believes to be a child under fourteen (14) years of age, to engage in:
(1) sexual intercourse;
(2) deviate sexual conduct; or

(3) any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person;
commits child solicitation, a Class D felony. However, the offense is a Class C felony if it is committed by using a computer network (as defined in IC 35-43-2-3(a)).
(c) In a prosecution under this section, including a prosecution for attempted solicitation, the state is not required to prove that the person solicited the child to engage in an act described in subsection (b) at some immediate time.
As added by P.L.183-1984, SEC.5. Amended by P.L.11-1994, SEC.16; P.L.79-1994, SEC.14; P.L.216-1996, SEC.20; P.L.118-2002, SEC.2..

IC 35-42-4-7

Sec. 7. (a) As used in this section, "adoptive parent" has the meaning set forth in IC 31-9-2-6.
(b) As used in this section, "adoptive grandparent" means the parent of an adoptive parent.
(c) As used in this section, "child care worker" means a person who provides care, supervision, or instruction to a child within the scope of the person's employment in a public or private school or shelter care facility.
(d) As used in this section, "custodian" means any person who resides with a child and is responsible for the child's welfare.
(e) As used in this section, "stepparent" means an individual who is married to a child's custodial or noncustodial parent and is not the child's adoptive parent.
(f) If a person who is:
(1) at least eighteen (18) years of age; and
(2) the:
(A) guardian, adoptive parent, adoptive grandparent, custodian, or stepparent of; or
(B) child care worker for;
a child at least sixteen (16) years of age but less than eighteen (18) years of age;
engages in sexual intercourse or deviate sexual conduct (as defined in IC 35-41-1-9) with the child, the person commits child seduction, a Class D felony.
As added by P.L.158-1987, SEC.4. Amended by P.L.1-1997, SEC.148; P.L.71-1998, SEC.5; P.L.228-2001, SEC.5.

IC 35-42-4-8

Sec. 8. (a) A person who, with intent to arouse or satisfy the person's own sexual desires or the sexual desires of another person, touches another person when that person is:
(1) compelled to submit to the touching by force or the imminent threat of force; or
(2) so mentally disabled or deficient that consent to the touching cannot be given;
commits sexual battery, a Class D felony.
(b) An offense described in subsection (a) is a Class C felony if:
(1) it is committed by using or threatening the use of deadly force;
(2) it is committed while armed with a deadly weapon; or
(3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.
As added by P.L.322-1987, SEC.2. Amended by P.L.31-1998, SEC.7.

IC 35-42-4-9

Sexual misconduct with a minor

Sec. 9. (a) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to sexual intercourse or deviate sexual conduct commits sexual misconduct with a minor, a Class C felony. However, the offense is:
(1) a Class B felony if it is committed by a person at least twenty-one (21) years of age; and
(2) a Class A felony if it is committed by using or threatening the use of deadly force, if it is committed while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.
(b) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to any fondling or touching, of either the child

or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits sexual misconduct with a minor, a Class D felony. However, the offense is:
(1) a Class C felony if it is committed by a person at least twenty-one (21) years of age; and
(2) a Class B felony if it is committed by using or threatening the use of deadly force, while armed with a deadly weapon, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.
(c) It is a defense that the accused person reasonably believed that the child was at least sixteen (16) years of age at the time of the conduct. However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).
(d) It is a defense that the child is or has ever been married. However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).
As added by P.L.79-1994, SEC.15. Amended by P.L.33-1996, SEC.9; P.L.216-1996, SEC.21; P.L.31-1998, SEC.8; P.L.266-2003, SEC.1.

IC 35-43-5
Chapter 5. Forgery, Fraud, and Other Deceptions
IC 35-43-5-1
Definitions
Sec. 1. (a) The definitions set forth in this section apply throughout this chapter.
(b) "Claim statement" means an insurance policy, a document, or a statement made in support of or in opposition to a claim for payment or other benefit under an insurance policy, or other evidence of expense, injury, or loss. The term includes statements made orally, in writing, or as a computer generated document, including the following:
(1) An account.
(2) A bill for services.
(3) A bill of lading.
(4) A claim.
(5) A diagnosis.
(6) An estimate of property damages.
(7) A hospital record.
(8) An invoice.
(9) A notice.
(10) A proof of loss.
(11) A receipt for payment.
(12) A physician's records.
(13) A prescription.
(14) A statement.
(15) A test result.
(16) X-rays.
(c) "Coin machine" means a coin box, vending machine, or other mechanical or electronic device or receptacle designed:
(1) to receive a coin, bill, or token made for that purpose; and
(2) in return for the insertion or deposit of a coin, bill, or token automatically:
(A) to offer, provide, or assist in providing; or
(B) to permit the acquisition of;
some property.
(d) "Credit card" means an instrument or device (whether known as a credit card or charge plate, or by any other name) issued by an issuer for use by or on behalf of the credit card holder in obtaining property.
(e) "Credit card holder" means the person to whom or for whose benefit the credit card is issued by an issuer.
(f) "Customer" means a person who receives or has contracted for a utility service.
(g) "Entrusted" means held in a fiduciary capacity or placed in charge of a person engaged in the business of transporting, storing, lending on, or otherwise holding property of others.
(h) "Identifying information" means information that identifies an individual, including an individual's:

(1) name, address, date of birth, place of employment, employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental entity;
(2) unique biometric data, including the individual's fingerprint, voice print, or retina or iris image;
(3) unique electronic identification number, address, or routing code;
(4) telecommunication identifying information; or
(5) telecommunication access device, including a card, a plate, a code, a telephone number, an account number, a personal identification number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access that may be used to:
(A) obtain money, goods, services, or any other thing of value; or
(B) initiate a transfer of funds.
(i) "Insurance policy" includes the following:
(1) An insurance policy.
(2) A contract with a health maintenance organization (as defined in IC 27-13-1-19).
(3) A written agreement entered into under IC 27-1-25.
(j) "Insurer" has the meaning set forth in IC 27-1-2-3(x).
(k) "Manufacturer" means a person who manufactures a recording. The term does not include a person who manufactures a medium upon which sounds or visual images can be recorded or stored.
(l) "Make" means to draw, prepare, complete, counterfeit, copy or otherwise reproduce, or alter any written instrument in whole or in part.
(m) "Metering device" means a mechanism or system used by a utility to measure or record the quantity of services received by a customer.
(n) "Public relief or assistance" means any payment made, service rendered, hospitalization provided, or other benefit extended to a person by a governmental entity from public funds and includes poor relief, food stamps, direct relief, unemployment compensation, and any other form of support or aid.
(o) "Recording" means a tangible medium upon which sounds or visual images are recorded or stored. The term includes the following:
(1) An original:
(A) phonograph record;
(B) compact disc;
(C) wire;
(D) tape;
(E) audio cassette;
(F) video cassette; or
(G) film.
(2) Any other medium on which sounds or visual images are or
can be recorded or otherwise stored.
(3) A copy or reproduction of an item in subdivision (1) or (2) that duplicates an original recording in whole or in part.
(p) "Slug" means an article or object that is capable of being deposited in a coin machine as an improper substitute for a genuine coin, bill, or token.
(q) "Utility" means a person who owns or operates, for public use, any plant, equipment, property, franchise, or license for the production, storage, transmission, sale, or delivery of electricity, water, steam, telecommunications, information, or gas.
(r) "Written instrument" means a paper, a document, or other instrument containing written matter and includes money, coins, tokens, stamps, seals, credit cards, badges, trademarks, medals, retail sales receipts, labels or markings (including a universal product code (UPC) or another product identification code), or other objects or symbols of value, right, privilege, or identification.
As added by Acts 1976, P.L.148, SEC.3. Amended by Acts 1977, P.L.340, SEC.49; P.L.321-1983, SEC.4; P.L.182-1984, SEC.3; P.L.180-1991, SEC.8; P.L.216-1991, SEC.1; P.L.193-1991, SEC.2; P.L.247-1993, SEC.1; P.L.150-1994, SEC.2; P.L.2-1995, SEC.127; P.L.84-2001, SEC.2; P.L.180-2001, SEC.1; P.L.22-2003, SEC.1; P.L.160-2003, SEC.27.

IC 35-43-5-3.5
Identity deception
Sec. 3.5. (a) Except as provided in subsection (b), a person who knowingly or intentionally obtains, possesses, transfers, or uses the identifying information of another person:

(1) without the other person's consent; and
(2) with intent to:
(A) harm or defraud another person;
(B) assume another person's identity; or
(C) profess to be another person;
commits identity deception, a Class D felony.
(b) The conduct prohibited in subsection (a) does not apply to:
(1) a person less than twenty-one (21) years of age who uses the identifying information of another person to acquire an alcoholic beverage (as defined in IC 7.1-1-3-5);
(2) a minor (as defined in IC 35-49-1-4) who uses the identifying information of another person to acquire:
(A) a cigarette or tobacco product (as defined in IC 6-7-2-5);
(B) a periodical, a videotape, or other communication medium that contains or depicts nudity (as defined in IC 35-49-1-5);
(C) admittance to a performance (live or film) that prohibits the attendance of the minor based on age; or
(D) an item that is prohibited by law for use or consumption by a minor; or
(3) any person who uses the identifying information for a lawful purpose.
(c) It is not a defense in a prosecution under subsection (a) that no person was harmed or defrauded.
As added by P.L.180-2001, SEC.2. Amended by P.L.22-2003, SEC.2.

IC 35-43-5-5
Check deception
Sec. 5. (a) A person who knowingly or intentionally issues or delivers a check, a draft, or an order on a credit institution for the payment of or to acquire money or other property, knowing that it will not be paid or honored by the credit institution upon presentment in the usual course of business, commits check deception, a Class A misdemeanor. However, the offense is a Class D felony if the amount of the check, draft, or order is at least two thousand five hundred dollars ($2,500) and the property acquired by the person was a motor vehicle.
(b) An unpaid and dishonored check, a draft, or an order that has
the drawee's refusal to pay and reason printed, stamped, or written on or attached to it constitutes prima facie evidence:
(1) that due presentment of it was made to the drawee for payment and dishonor thereof; and
(2) that it properly was dishonored for the reason stated.
(c) The fact that a person issued or delivered a check, a draft, or an order, payment of which was refused by the drawee, constitutes prima facie evidence that the person knew that it would not be paid or honored. In addition, evidence that a person had insufficient funds in or no account with a drawee credit institution constitutes prima facie evidence that the person knew that the check, draft, or order would not be paid or honored.
(d) The following two (2) items constitute prima facie evidence of the identity of the maker of a check, draft, or order if at the time of its acceptance they are obtained and recorded, either on the check, draft, or order itself or on file, by the payee:
(1) Name and residence, business, or mailing address of the maker.
(2) Motor vehicle operator's license number, Social Security number, home telephone number, or place of employment of the maker.
(e) It is a defense under subsection (a) if a person who:
(1) has an account with a credit institution but does not have sufficient funds in that account; and
(2) issues or delivers a check, a draft, or an order for payment on that credit institution;
pays the payee or holder the amount due, together with protest fees and any service fee or charge, which may not exceed the greater of twenty-seven dollars and fifty cents ($27.50) or five percent (5%) (but not more than two hundred fifty dollars ($250)) of the amount due, that may be charged by the payee or holder, within ten (10) days after the date of mailing by the payee or holder of notice to the person that the check, draft, or order has not been paid by the credit institution. Notice sent in the manner set forth in IC 26-2-7-3 constitutes notice to the person that the check, draft, or order has not been paid by the credit institution. The payee or holder of a check, draft, or order that has been dishonored incurs no civil or criminal liability for sending notice under this subsection.
(f) A person does not commit a crime under subsection (a) when:
(1) the payee or holder knows that the person has insufficient funds to ensure payment or that the check,

draft, or order is postdated; or
(2) insufficiency of funds or credit results from an adjustment to the person's account by the credit institution without notice to the person.
As added by Acts 1978, P.L.144, SEC.6. Amended by Acts 1981, P.L.303, SEC.1; P.L.268-1983, SEC.2; P.L.328-1983, SEC.1; P.L.298-1989, SEC.1; P.L.42-1993, SEC.96; P.L.300-1995, SEC.1; P.L.85-2003, SEC.1.

IC 35-43-5-7.3 Repealed
(*Repealed by P.L.255-2003, SEC.55.)*

IC 35-44
ARTICLE 44. OFFENSES AGAINST PUBLIC ADMINISTRATION

IC 35-44-1
Chapter 1. Bribery, Conflict of Interest, and Official Misconduct

IC 35-44-1-3
Sec. 3. (a) A public servant who knowingly or intentionally:
(1) has a pecuniary interest in; or
(2) derives a profit from;
a contract or purchase connected with an action by the governmental entity served by the public servant commits conflict of interest, a Class D felony.
(b) This section does not prohibit a public servant from receiving compensation for:
(1) services provided as a public servant; or
(2) expenses incurred by the public servant as provided by law.
(c) This section does not prohibit a public servant from having a pecuniary interest in or deriving a profit from a contract or purchase connected with the governmental entity served under any of the following conditions:
(1) If the:
(A) public servant is not a member or on the staff of the governing body empowered to contract or purchase on behalf of the governmental entity;
(B) functions and duties performed by the public servant for the governmental entity are unrelated to the contract or
purchase; and
(C) public servant makes a disclosure under subsection (d)(1) through (d)(6).
(2) If the contract or purchase involves utility services from a utility whose rate structure is regulated by the state or federal government.
(3) If the public servant:
(A) is an elected public servant or a member of the board of trustees of a state supported college or university; and
(B) makes a disclosure under subsection (d)(1) through (d)(6).
(4) If the public servant:
(A) was appointed by an elected public servant or the board of trustees of a state supported college or university; and
(B) makes a disclosure under subsection (d)(1) through (d)(7).
(5) If the public servant:
(A) acts in only an advisory capacity for a state supported college or university; and
(B) does not have authority to act on behalf of the college or university in a matter involving a contract or purchase.
(6) If the public servant:
(A) is employed by the governing body of a school corporation and the contract or purchase involves the employment of a dependent or the payment of fees to a dependent; and
(B) makes a disclosure under subsection (d)(1) through (d)(6).
(7) If the public servant is under the jurisdiction of the state ethics commission as provided in IC 4-2-6-2.5 and obtains from the state ethics commission, following full and truthful disclosure, written approval that the public servant will not or does not have a conflict of interest in connection with the contract or purchase

under IC 4-2-6 and this section. The approval required under this subdivision must be:
(A) granted to the public servant before action is taken in connection with the contract or purchase by the governmental entity served; or
(B) sought by the public servant as soon after the contract or purchase as the public servant becomes aware of the facts that give rise to a question of conflict of interest.
(d) A disclosure required by this section must:
(1) be in writing;
(2) describe the contract or purchase to be made by the governmental entity;
(3) describe the pecuniary interest that the public servant has in the contract or purchase;
(4) be affirmed under penalty of perjury;
(5) be submitted to the governmental entity and be accepted by the governmental entity in a public meeting of the governmental entity prior to final action on the contract or purchase;
(6) be filed within fifteen (15) days after final action on the contract or purchase with:
(A) the state board of accounts; and
(B) if the governmental entity is a governmental entity other
than the state or a state supported college or university, the clerk of the circuit court in the county where the governmental entity takes final action on the contract or purchase; and
(7) contain, if the public servant is appointed, the written approval of the elected public servant (if any) or the board of trustees of a state supported college or university (if any) that appointed the public servant.
(e) The state board of accounts shall forward to the state ethics commission a copy of all disclosures filed with the board under IC 16-22-2 through IC 16-22-5, IC 16-23-1, or this section.
(f) The state ethics commission shall maintain an index of all disclosures received by the commission. The index must contain a listing of each public servant, setting forth the disclosures received by the commission made by that public servant.
(g) A public servant has a pecuniary interest in a contract or purchase if the contract or purchase will result or is intended to result in an ascertainable increase in the income or net worth of:
(1) the public servant; or
(2) a dependent of the public servant who:
(A) is under the direct or indirect administrative control of the public servant; or
(B) receives a contract or purchase order that is reviewed, approved, or directly or indirectly administered by the public servant.
(h) It is a defense in a prosecution under this section that the public servant's interest in the contract or purchase and all other contracts and purchases made by the governmental entity during the twelve (12) months before the date of the contract or purchase was two hundred fifty dollars ($250) or less.
(i) Notwithstanding subsection (d), a member of the board of trustees of a state supported college or university, or a person appointed by such a board of trustees, complies with the disclosure requirements of this chapter with respect to the member's or person's pecuniary interest in a particular type of contract or purchase which is made on a regular basis from a particular vendor if the member or person files with the state board of accounts and the board of trustees a statement of pecuniary interest in that particular type of contract or purchase made with that particular vendor. The statement required by this subsection must be made on an annual basis.
(j) This section does not apply to members of the governing board of a hospital organized or operated under IC 16-22-1 through IC 16-22-5 or IC 16-23-1.
(k) As used in this section, "dependent" means any of the following:
(1) The spouse of a public servant.
(2) A child, stepchild, or adoptee (as defined in IC 31-9-2-2) of a public servant who is:
(A) unemancipated; and
(B) less than eighteen (18) years of age.
(3) Any individual more than one-half (1/2) of whose support is provided during a year by the public servant.
As added by Acts 1978, P.L.144, SEC.7. Amended by Acts 1981, P.L.304, SEC.1; P.L.329-1983, SEC.1; P.L.66-1987, SEC.28; P.L.13-1987, SEC.16; P.L.183-1988, SEC.1; P.L.109-1988, SEC.3; P.L.197-1989, SEC.3; P.L.2-1993, SEC.185; P.L.22-1995, SEC.3; P.L.1-1997, SEC.149.

IC 35-44-1-5

Sec. 5. (a) As used in this section, "service provider" means a public servant or other person employed by a

governmental entity or another person who provides goods or services to a person who is subject to lawful detention.
(b) A service provider who knowingly or intentionally engages in sexual intercourse or deviate sexual conduct with a person who is subject to lawful detention commits sexual misconduct, a Class D felony.
(c) It is not a defense that an act described in subsection (b) was consensual.
(d) This section does not apply to sexual intercourse or deviate sexual conduct between spouses.
As added by P.L.324-1987, SEC.1

IC 35-44-2-2
False reporting or informing
Sec. 2. (a) As used in this section, "consumer product" has the meaning set forth in IC 35-45-8-1.
(b) As used in this section, "misconduct" means a violation of a departmental rule or procedure of a law enforcement agency.
(c) A person who reports, by telephone, telegraph, mail, or other written or oral communication, that:
(1) the person or another person has placed or intends to place an explosive, a destructive device, or other destructive substance in a building or transportation facility;
(2) there has been or there will be tampering with a consumer product introduced into commerce; or
(3) there has been or will be placed or introduced a weapon of mass destruction in a building or a place of assembly;
knowing the report to be false commits false reporting, a Class D felony.
(d) A person who:
(1) gives a false report of the commission of a crime or gives false information in the official investigation of the commission of a crime, knowing the report or information to be false;
(2) gives a false alarm of fire to the fire department of a governmental entity, knowing the alarm to be false;
(3) makes a false request for ambulance service to an ambulance service provider, knowing the request to be false;
(4) gives a false report concerning a missing child (as defined in IC 10-13-5-4) or gives false information in the official investigation of a missing child knowing the report or information to be false; or
(5) makes a complaint against a law enforcement officer to the state or municipality (as defined in IC 8-1-13-3) that employs the officer:
(A) alleging the officer engaged in misconduct while performing the officer's duties; and
(B) knowing the complaint to be false;
commits false informing, a Class B misdemeanor. However, the offense is a Class A misdemeanor if it substantially hinders any law enforcement process or if it results in harm to an innocent person.
As added by Acts 1976, P.L.148, SEC.4. Amended by Acts 1977, P.L.340, SEC.56; Acts 1977, P.L.341, SEC.1; P.L.326-1987, SEC.3; P.L.49-1989, SEC.23; P.L.156-2001, SEC.12; P.L.123-2002, SEC.39; P.L.2-2003, SEC.96; P.L.232-2003, SEC.1.

IC 35-44-2-4
Sec. 4. (a) A public servant who knowingly or intentionally:
(1) hires an employee for the governmental entity that he serves; and
(2) fails to assign to the employee any duties, or assigns to the employee any duties not related to the operation of the governmental entity;
commits ghost employment, a Class D felony.
(b) A public servant who knowingly or intentionally assigns to an employee under his supervision any duties not related to the operation of the governmental entity that he serves commits ghost employment, a Class D felony.
(c) A person employed by a governmental entity who, knowing that he has not been assigned any duties to perform for the entity, accepts property from the entity commits ghost employment, a Class D felony.
(d) A person employed by a governmental entity who knowingly or intentionally accepts property from the entity for the performance of duties not related to the operation of the entity commits ghost employment, a Class D felony.
(e) Any person who accepts property from a governmental entity in violation of this section and any public servant who permits the payment of property in violation of this section are jointly and severally liable to the governmental entity for that property. The attorney general may bring a civil action to recover that

property in the county where the governmental entity is located or the person or public servant resides.
(f) For the purposes of this section, an employee of a governmental entity who voluntarily performs services:
(1) that do not:
(A) promote religion;
(B) attempt to influence legislation or governmental policy; or
(C) attempt to influence elections to public office;
(2) for the benefit of:
(A) another governmental entity; or
(B) an organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue
Code;
(3) with the approval of the employee's supervisor; and
(4) in compliance with a policy or regulation that:
(A) is in writing;
(B) is issued by the executive officer of the governmental entity; and
(C) contains a limitation on the total time during any calendar year that the employee may spend performing the services during normal hours of employment;
is considered to be performing duties related to the operation of the governmental entity.
As added by Acts 1977, P.L.340, SEC.58. Amended by P.L.68-1998, SEC.1

IC 35-46
ARTICLE 46. MISCELLANEOUS OFFENSES

IC 35-46-1
Chapter 1. Offenses Against the Family

IC 35-46-1-1
Sec. 1. As used in this chapter:
"Dependent" means:
(1) an unemancipated person who is under eighteen (18) years of age; or
(2) a person of any age who is mentally or physically disabled.
"Endangered adult" has the meaning set forth in IC 12-10-3-2.
"Support" means food, clothing, shelter, or medical care.
"Tobacco business" means a sole proprietorship, corporation, partnership, or other enterprise in which:
(1) the primary activity is the sale of tobacco, tobacco products, and tobacco accessories; and
(2) the sale of other products is incidental.
As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.84; P.L.185-1984, SEC.2; P.L.208-1986, SEC.1; P.L.41-1987, SEC.19; P.L.2-1992, SEC.881; P.L.256-1996, SEC.10.
IC 35-46-1-1.7
Sec. 1.7. As used in this chapter, "tobacco" includes:
(1) chewing tobacco;
(2) cigars, cigarettes, and snuff that contain tobacco; and
(3) pipe tobacco.
As added by P.L.318-1987, SEC.2.
IC 35-46-1-2
Sec. 2. (a) A person who, being married and knowing that his spouse is alive, marries again commits bigamy, a Class D felony.
(b) It is a defense that the accused person reasonably believed that he was eligible to remarry.
As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.85.
IC 35-46-1-3
Sec. 3. (a) A person eighteen (18) years of age or older who engages in sexual intercourse or deviate sexual conduct with another person, when the person knows that the other person is related to the person biologically as a parent, child, grandparent, grandchild, sibling, aunt, uncle, niece, or nephew, commits incest, a Class C felony. However, the offense is a Class B felony if the other person is less than sixteen

(16) years of age.
(b) It is a defense that the accused person's otherwise incestuous relation with the other person was based on their marriage, if it was valid where entered into.
As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.86; P.L.158-1987, SEC.5; P.L.79-1994, SEC.16.

IC 35-46-1-4

Sec. 4. (a) A person having the care of a dependent, whether assumed voluntarily or because of a legal obligation, who knowingly or intentionally:
(1) places the dependent in a situation that endangers the dependent's life or health;
(2) abandons or cruelly confines the dependent;
(3) deprives the dependent of necessary support; or
(4) deprives the dependent of education as required by law;
commits neglect of a dependent, a Class D felony.
(b) However, the offense is:
(1) a Class C felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and results in bodily injury;
(2) a Class B felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and results in serious bodily injury; and
(3) a Class C felony if it is committed under subsection (a)(2) and consists of cruel or unusual confinement or abandonment.
It is a defense that the accused person, in the legitimate practice of his religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to his dependent.
(c) Except for property transferred or received:
(1) under a court order made in connection with a proceeding under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5 or IC 31-6-5 before their repeal); or
(2) under IC 35-46-1-9(b);
a person who transfers or receives any property in consideration for the termination of the care, custody, or control of a person's dependent child commits child selling, a Class D felony.
As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.87; Acts 1978, P.L.144, SEC.8; Acts 1980, P.L.208, SEC.1; Acts 1981, P.L.299, SEC.2; Acts 1981, P.L.301, SEC.3; P.L.1-1997, SEC.151; P.L.197-1999, SEC.6.

IC 35-46-1-5

Sec. 5. (a) A person who knowingly or intentionally fails to provide support to the person's dependent child commits nonsupport of a child, a Class D felony. However, the offense is a Class C felony if the total amount of unpaid support that is due and owing for one (1) or more children is at least fifteen thousand dollars ($15,000).
(b) It is a defense that the child had abandoned the home of his family without the consent of his parent or on the order of a court, but it is not a defense that the child had abandoned the home of his family if the cause of the child's leaving was the fault of his parent.
(c) It is a defense that the accused person, in the legitimate practice of his religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to his dependent child.
(d) It is a defense that the accused person was unable to provide support.
As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.88; Acts 1978, P.L.144, SEC.9; P.L.213-1996, SEC.4; P.L.123-2001, SEC.4.

IC 35-46-1-6

Sec. 6. (a) A person who knowingly or intentionally fails to provide support to his spouse, when the spouse needs support, commits nonsupport of a spouse, a Class D felony.
(b) It is a defense that the accused person was unable to provide support.
As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.89; Acts 1978, P.L.144, SEC.10.

IC 35-46-1-7

Sec. 7. (a) A person who knowingly or intentionally fails to provide support to his parent, when the parent is unable to support himself, commits nonsupport of a parent, a Class A misdemeanor.
(b) It is a defense that the accused person had not been supported by the parent during the time he was a dependent child under eighteen (18) years of age, unless the parent was unable to provide support.
(c) It is a defense that the accused person was unable to provide support.

As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.90; Acts 1978, P.L.144, SEC.11.

IC 35-46-1-8

Sec. 8. A person eighteen (18) years of age or older who knowingly or intentionally encourages, aids, induces, or causes a person under eighteen (18) years of age to commit an act of delinquency (as defined by IC 31-37-1 or IC 31-37-2) commits contributing to delinquency, a Class A misdemeanor. However, the offense is a Class C felony if the person knowingly or intentionally encourages, aids, induces, or causes a person less than eighteen (18) years of age to commit an act that would be a felony if committed by an adult under:

(1) IC 35-48-4-1;
(2) IC 35-48-4-2;
(3) IC 35-48-4-3;
(4) IC 35-48-4-4;
(5) IC 35-48-4-4.5;
(6) IC 35-48-4-4.6; or
(7) IC 35-48-4-5.

As added by Acts 1976, P.L.148, SEC.6. Amended by Acts 1977, P.L.340, SEC.91; Acts 1978, P.L.144, SEC.12; Acts 1979, P.L.276, SEC.58; P.L.216-1996, SEC.24; P.L.1-1997, SEC.152.

IC 35-46-1-9

Sec. 9. (a) Except as provided in subsection (b), a person who, with respect to an adoption, transfers or receives any property in connection with the waiver of parental rights, the termination of parental rights, the consent to adoption, or the petition for adoption commits profiting from an adoption, a Class D felony.

(b) This section does not apply to the transfer or receipt of:

(1) reasonable attorney's fees;
(2) hospital and medical expenses concerning childbirth and pregnancy incurred by the adopted person's birth mother;
(3) reasonable charges and fees levied by a child placing agency licensed under IC 12-17.4 or by a county office of family and children;
(4) reasonable expenses for psychological counseling relating to adoption incurred by the adopted person's birth parents;
(5) reasonable costs of housing, utilities, and phone service for the adopted person's birth mother during the second or third trimester of pregnancy and not more than six (6) weeks after childbirth;
(6) reasonable costs of maternity clothing for the adopted person's birth mother;
(7) reasonable travel expenses incurred by the adopted person's birth mother that relate to the pregnancy or adoption;
(8) any additional itemized necessary living expenses for the adopted person's birth mother during the second or third trimester of pregnancy and not more than six (6) weeks after childbirth, not listed in subdivisions (5) through (7) in an amount not to exceed one thousand dollars ($1,000); or
(9) other charges and fees approved by the court supervising the adoption, including reimbursement of not more than actual wages lost as a result of the inability of the adopted person's birth mother to work at her regular, existing employment due to a medical condition, excluding a psychological condition, if:
(A) the attending physician of the adopted person's birth mother has ordered or recommended that the adopted person's birth mother discontinue her employment; and
(B) the medical condition and its direct relationship to the pregnancy of the adopted person's birth mother are documented by her attending physician.

In determining the amount of reimbursable lost wages, if any, that are reasonably payable to the adopted person's birth mother under subdivision (9), the court shall offset against the reimbursable lost wages any amounts paid to the adopted person's birth mother under subdivisions (5) and (8) and any unemployment compensation received by or owed to the adopted person's birth mother.

(c) Except as provided in this subsection, payments made under subsection (b)(5) through (b)(9) may not exceed three thousand dollars ($3,000) and must be disclosed to the court supervising the adoption. The amounts paid under subsection (b)(5) through (b)(9) may exceed three thousand dollars ($3,000) to the extent that a court in Indiana with jurisdiction over the child who is the subject of the adoption approves the expenses after determining that:

(1) the expenses are not being offered as an inducement to proceed with an adoption; and
(2) failure to make the payments may seriously jeopardize the health of either the child or the mother of the

child and the direct relationship is documented by the attending physician.
(d) An attorney or licensed child placing agency shall inform a birth mother of the penalties for committing adoption deception under section 9.5 of this chapter before the attorney or agency transfers a payment for adoption related expenses under subsection (b) in relation to the birth mother.
(e) The limitations in this section apply regardless of the state or country in which the adoption is finalized.
As added by Acts 1980, P.L.208, SEC.2. Amended by P.L.117-1990, SEC.6; P.L.2-1992, SEC.882; P.L.81-1992, SEC.39; P.L.1-1993, SEC.241; P.L.4-1993, SEC.326; P.L.5-1993, SEC.333; P.L.226-1996, SEC.1; P.L.200-1999, SEC.32.

IC 35-46-1-9.5
Adoption deception
Sec. 9.5. A person who is a birth mother, or a woman who holds herself out to be a birth mother, and who knowingly or intentionally benefits from adoption related expenses paid:
(1) when the person knows or should have known that the person is not pregnant;
(2) by or on behalf of a prospective adoptive parent who is unaware that at the same time another prospective adoptive parent is also incurring adoption related expenses described under section 9(b) of this chapter in an effort to adopt the same child; or
(3) when the person does not intend to make an adoptive placement;
commits adoption deception, a Class A misdemeanor. In addition to any other penalty imposed under this section, a court may order the person who commits adoption deception to make restitution to a prospective adoptive parent, attorney, or licensed child placing agency that incurs an expense as a result of the offense.
As added by P.L.200-1999, SEC.33. Amended by P.L.61-2003, SEC.21.
IC 35-46-1-10
Sale or distribution of tobacco to minors; defenses
Sec. 10. (a) A person who knowingly:
(1) sells or distributes tobacco to a person less than eighteen (18) years of age; or
(2) purchases tobacco for delivery to another person who is less than eighteen (18) years of age;
commits a Class C infraction. For a sale to take place under this section, the buyer must pay the seller for the tobacco product.
(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.
(c) The following defenses are available to a person accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:
(1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph, showing that the purchaser or recipient was of legal age to make the purchase.
(2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1, or a similar card issued under the laws of another state or the federal government, showing that the purchaser or recipient was of legal age to make the purchase.
(3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.
(d) It is a defense that the accused person sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:
(1) agriculture;
(2) processing;
(3) transporting;
(4) wholesaling; or
(5) retailing.
(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.
(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a person who sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.
(g) Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the Richard D. Doyle youth tobacco education and enforcement fund (IC 7.1-6-2-6).

As added by Acts 1980, P.L.209, SEC.1. Amended by P.L.330-1983, SEC.1; P.L.318-1987, SEC.3; P.L.125-1988, SEC.4; P.L.177-1999, SEC.10; P.L.1-2001, SEC.37; P.L.204-2001, SEC.65; P.L.252-2003, SEC.17.

IC 35-46-1-10.2

Retail establishment's sale or distribution of tobacco to minors; defenses

Sec. 10.2. (a) A retail establishment that sells or distributes tobacco to a person less than eighteen (18) years of age commits a Class C infraction. For a sale to take place under this section, the buyer must pay the retail establishment for the tobacco product. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

(1) If the retail establishment at that specific business location has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars ($50).

(2) If the retail establishment at that specific business location has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of one hundred dollars ($100).

(3) If the retail establishment at that specific business location has had two (2) citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of two hundred fifty dollars ($250).

(4) If the retail establishment at that specific business location has had three (3) or more citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of five hundred dollars ($500).

A retail establishment may not be issued a citation or summons for a violation of this section more than once every twenty-four (24) hours for each specific business location.

(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.

(c) The following defenses are available to a retail establishment accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:

(1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph showing that the purchaser or recipient was of legal age to make the purchase.

(2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1 or a similar card
issued under the laws of another state or the federal government showing that the purchaser or recipient was of legal age to make the purchase.

(3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.

(d) It is a defense that the accused retail establishment sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

(1) agriculture;

(2) processing;

(3) transporting;

(4) wholesaling; or

(5) retailing.

(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a retail establishment that sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.

(g) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the Richard D. Doyle youth tobacco education and enforcement fund (IC 7.1-6-2-6).

(h) A person who violates subsection (a) at least six (6) times in any six (6) month period commits habitual illegal sale of tobacco, a Class B infraction.

As added by P.L.177-1999, SEC.11. Amended by P.L.14-2000, SEC.72; P.L.1-2001, SEC.38; P.L.250-2003, SEC.17; P.L.252-2003, SEC.18.

IC 35-46-1-10.5

Sec. 10.5. (a) A person less than eighteen (18) years of age who:

(1) purchases tobacco;

(2) accepts tobacco for personal use; or
(3) possesses tobacco on his person;
commits a Class C infraction.
(b) It is a defense under subsection (a) that the accused person acted in the ordinary course of employment in a business concerning tobacco:
(1) agriculture;
(2) processing;
(3) transporting;
(4) wholesaling; or
(5) retailing.
As added by P.L.125-1988, SEC.5. Amended by P.L.256-1996, SEC.13.

IC 35-46-1-11

Sec. 11. (a) A tobacco vending machine that is located in a public place must bear a conspicuous notice:
(1) that reads as follows, with the capitalization indicated: "If you are under 18 years of age, YOU ARE FORBIDDEN by Indiana law to buy tobacco from this machine."; or
(2) that:
(A) conveys a message substantially similar to the message described in subdivision (1); and
(B) is formatted with words and in a form authorized under the rules adopted by the alcohol and tobacco commission.
(b) A person who owns or has control over a tobacco vending machine in a public place and who:
(1) fails to post the notice required by subsection (a) on his vending machine; or
(2) fails to replace the notice within one (1) month after it is removed or defaced;
commits a Class C infraction.
(c) An establishment selling tobacco at retail shall post and maintain in a conspicuous place a sign, printed in letters at least one-half (1/2) inch high, reading as follows: "The sale of tobacco to persons under 18 years of age is forbidden by Indiana law.
(d) A person who:
(1) owns or has control over an establishment selling tobacco at retail; and
(2) fails to post and maintain the sign required by subsection (c);
commits a Class C infraction.
As added by P.L.330-1983, SEC.2. Amended by P.L.318-1987, SEC.4; P.L.204-2001, SEC.66.

IC 35-46-1-11.2

Sec. 11.2. (a) This section does not apply to a tobacco business:
(1) operating as a tobacco business before April 1, 1996; or
(2) that begins operating as a tobacco business after April 1, 1996, if at the time the tobacco business begins operation the tobacco business is not located in an area prohibited under this section.
(b) A person may not operate a tobacco business within two hundred (200) feet of a public or private elementary or secondary school, as measured between the nearest point of the premises occupied by the tobacco business and the nearest point of a building used by the school for instructional purposes.
(c) A person who violates this section commits a Class C misdemeanor.
As added by P.L.256-1996, SEC.11.

IC 35-46-1-11.3 Repealed

(*Repealed by P.L.250-2003, SEC.19.)*

IC 35-46-1-11.5

Coin machines for sale or distribution of tobacco

Sec. 11.5. (a) Except for a coin machine that is placed in or directly adjacent to an entranceway or an exit, or placed in a hallway, a restroom, or another common area that is accessible to persons who are less than eighteen (18) years of age, this section does not apply to a coin machine that is located in the following:
(1) That part of a licensed premises (as defined in IC 7.1-1-3-20) where entry is limited to persons who are at least eighteen (18) years of age.
(2) Private industrial or office locations that are customarily accessible only to persons who are at least eighteen (18) years of age.
(3) Private clubs if the membership is limited to persons who are at least eighteen (18) years of age.
(4) Riverboats where entry is limited to persons who are at least twenty-one (21) years of age and on which lawful gambling is authorized.

(b) As used in this section, "coin machine" has the meaning set forth in IC 35-43-5-1.
(c) Except as provided in subsection (a), an owner of a retail establishment may not:
(1) distribute or sell tobacco by use of a coin machine; or
(2) install or maintain a coin machine that is intended to be used for the sale or distribution of tobacco.
(d) An owner of a retail establishment who violates this section commits a Class C infraction. A citation or summons issued under this section must provide notice that the coin machine must be moved within two (2) business days. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:
(1) If the owner of the retail establishment has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars ($50).
(2) If the owner of the retail establishment has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of two hundred fifty dollars ($250).
(3) If the owner of the retail establishment has had two (2) citations or summonses issued for a violation of this section in the previous ninety (90) days for the same machine, the coin machine shall be removed or impounded by a law enforcement officer having jurisdiction where the violation occurs.
An owner of a retail establishment may not be issued a citation or
summons for a violation of this section more than once every two (2) business days for each business location.
(e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the Richard D. Doyle youth tobacco education and enforcement fund established under IC 7.1-6-2-6.
As added by P.L.49-1990, SEC.20. Amended by P.L.177-1999, SEC.13; P.L.14-2000, SEC.73; P.L.1-2001, SEC.40; P.L.252-2003, SEC.20.

IC 35-46-1-11.7

Minors prohibited from entering retail establishment that primarily sells tobacco products

Sec. 11.7. (a) A retail establishment that has as its primary purpose the sale of tobacco products may not allow an individual who is less than eighteen (18) years of age to enter the retail establishment.
(b) An individual who is less than eighteen (18) years of age may not enter a retail establishment described in subsection (a).
(c) A retail establishment described in subsection (a) must conspicuously post on all entrances to the retail establishment a sign in boldface type that states "NOTICE: It is unlawful for a person less than 18 years old to enter this store.".
(d) A person who violates this section commits a Class C infraction. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:
(1) If the person has not been cited for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars ($50).
(2) If the person has had one (1) violation in the previous ninety (90) days, a civil penalty of one hundred dollars ($100).
(3) If the person has had two (2) violations in the previous ninety (90) days, a civil penalty of two hundred fifty dollars ($250).
(4) If the person has had three (3) or more violations in the previous ninety (90) days, a civil penalty of five hundred dollars ($500).
A person may not be cited more than once every twenty-four (24) hours.
(e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the Richard D. Doyle youth tobacco education and enforcement fund established under IC 7.1-6-2-6.
As added by P.L.177-1999, SEC.14. Amended by P.L.14-2000, SEC.74; P.L.1-2001, SEC.41; P.L.252-2003, SEC.21.

IC 35-46-1-12

Sec. 12. (a) A person who recklessly, knowingly, or intentionally exerts unauthorized use of the personal services or the property of:

(1) an endangered adult; or

(2) a dependent eighteen (18) years of age or older;

for one's own profit or advantage or for the profit or advantage of another commits exploitation of a dependent or an endangered adult, a Class A misdemeanor.

(b) A person who recklessly, knowingly, or intentionally deprives an endangered adult or a dependent of the proceeds of the endangered adult's or the dependent's benefits under the Social Security Act or other retirement program that the division of family and children or county office of family and children has budgeted for the endangered adult's or dependent's health care commits financial exploitation of an endangered adult or a dependent, a Class A misdemeanor.

As added by Acts 1981, P.L.299, SEC.3. Amended by P.L.185-1984, SEC.3; P.L.37-1990, SEC.26; P.L.2-1992, SEC.883; P.L.4-1993, SEC.327; P.L.5-1993, SEC.334.

IC 35-46-1-13

Sec. 13. (a) A person who:

(1) believes or has reason to believe that an endangered adult is the victim of battery, neglect, or exploitation as prohibited by this chapter, IC 35-42-2-1(2)(C), or IC 35-42-2-1(2)(F); and

(2) fails to report the facts supporting that belief to the division of disability, aging, and rehabilitative services, the adult protective services unit designated under IC 12-10-3, or a law enforcement agency having jurisdiction over battery, neglect, or exploitation of an endangered adult;

commits a Class A infraction.

(b) An officer or employee of the division or adult protective services unit who unlawfully discloses information contained in the

records of the division of disability, aging, and rehabilitative services under IC 12-10-3-12 through IC 12-10-3-16 commits a Class C infraction.

(c) A law enforcement agency that receives a report that an endangered adult is or may be a victim of battery, neglect, or exploitation as prohibited by this chapter, IC 35-42-2-1(2)(C), or IC 35-42-2-1(2)(F) shall immediately communicate the report to the adult protective services unit designated under IC 12-10-3.

(d) An individual who discharges, demotes, transfers, prepares a negative work performance evaluation, reduces benefits, pay, or work privileges, or takes other action to retaliate against an individual who in good faith makes a report under IC 12-10-3-9 concerning an endangered individual commits a Class A infraction.

As added by Acts 1981, P.L.299, SEC.4. Amended by P.L.185-1984, SEC.4; P.L.39-1985, SEC.3; P.L.41-1987, SEC.20; P.L.42-1987, SEC.14; P.L.2-1992, SEC.884; P.L.4-1993, SEC.328; P.L.5-1993, SEC.335; P.L.2-1997, SEC.75.

IC 35-46-1-14

Sec. 14. Any person acting in good faith who:

(1) makes or causes to be made a report of neglect, battery, or exploitation under this chapter, IC 35-42-2-1(2)(C), or IC 35-42-2-1(2)(F);

(2) makes or causes to be made photographs or X-rays of a victim of suspected neglect or battery of an endangered adult or a dependent eighteen (18) years of age or older; or

(3) participates in any official proceeding or a proceeding resulting from a report of neglect, battery, or exploitation of an endangered adult or a dependent eighteen (18) years of age or older relating to the subject matter of that report;

is immune from any civil or criminal liability that might otherwise be imposed because of these actions. However, this section does not apply to a person accused of neglect, battery, or exploitation of an endangered adult or a dependent eighteen (18) years of age or older.

As added by Acts 1981, P.L.299, SEC.5. Amended by P.L.185-1984, SEC.5; P.L.2-1997, SEC.76; P.L.2-1998, SEC.81.

IC 35-46-1-15

(*Repealed by P.L.1-1991, SEC.200.)*

IC 35-46-1-15.1a

Note: This version of section effective until 7-1-2002. See also following version of this section, effective 7-1-2002.

Sec. 15.1. (a) A person who knowingly or intentionally violates:
(1) a protective order issued under:
(A) IC 34-26-2-12(1)(A) (or IC 34-4-5.1-5(a)(1)(A) before its repeal);
(B) IC 34-26-2-12(1)(B) (or IC 34-4-5.1-5(a)(1)(B) before its repeal); or
(C) IC 34-26-2-12(1)(C) (or IC 34-4-5.1-5(a)(1)(C) before its repeal);
that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner;
(2) an emergency protective order issued under IC 34-26-2-6(1), IC 34-26-2-6(2), IC 34-26-2-6(3), (or IC 34-4-5.1-2.3(a)(1)(A), IC 34-4-5.1-2.3(a)(1)(B), or IC 34-4-5.1-2.3(a)(1)(C) before their repeal) that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner;
(3) a temporary restraining order issued under IC 31-15-4-3(2) or IC 31-15-4-3(3) (or IC 31-1-11.5-7(b)(2), IC 31-1-11.5-7(b)(3), IC 31-16-4-2(a)(2), or IC 31-16-4-2(a)(3) before their repeal) that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner;
(4) an order in a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-19-5 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child;
(5) an order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion that orders the person to refrain from any direct or indirect contact with another person;
(6) an order issued as a condition of probation that orders the person to refrain from any direct or indirect contact with another person;
(7) a protective order issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal) that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner;
(8) a protective order issued under IC 31-14-16 in a paternity action;
(9) a protective order issued under IC 31-34-17 in a child in need of services proceeding or under IC 31-37-16 in a juvenile delinquency proceeding that orders the respondent to refrain from having direct or indirect contact with a child;
(10) an order issued in another state that is substantially similar to an order described in subdivisions (1) through (9); or
(11) an order that is substantially similar to an order described in subdivisions (1) through (9) and is issued by an Indian:
(A) tribe;
(B) band;
(C) pueblo;
(D) nation; or
(E) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);
that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians;
commits invasion of privacy, a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction for an offense under this section.
(b) In addition to any other penalty imposed for conviction of a Class A misdemeanor under this section, if the violation of the protective order results in bodily injury to the petitioner, the court shall order the defendant to be imprisoned for five (5) days. A five (5) day sentence under this subsection may not be suspended. The court may require the defendant to serve the five (5) day term of imprisonment in an appropriate facility at whatever time or intervals, consecutive or intermittent, the court determines to be appropriate. However:
(1) at least forty-eight (48) hours of the sentence must be served consecutively; and
(2) the entire five (5) day sentence must be served within six (6) months after the date of sentencing.
(c) Notwithstanding IC 35-50-6, a person does not earn credit time while serving a five (5) day sentence under subsection (b).
As added by P.L.1-1991, SEC.201. Amended by P.L.49-1993, SEC.14; P.L.242-1993, SEC.5; P.L.1-1994, SEC.170; P.L.23-1994, SEC.17; P.L.303-1995, SEC.1; P.L.1-1997, SEC.153; P.L.37-1997, SEC.3; P.L.1-1998, SEC.199; P.L.1-2001, SEC.42; P.L.280-2001, SEC.53; P.L.1-2002, SEC.150.

IC 35-46-1-15.1b

Note: This version of section effective 7-1-2002. See also preceding version of this section, effective until 7-1-2002.

Sec. 15.1. A person who knowingly or intentionally violates:
(1) a protective order to prevent domestic or family violence issued under IC 34-26-5 (or, if the order involved a family or household member, under IC 34-26-2 or IC 34-4-5.1-5 before their repeal);
(2) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);
(3) a workplace violence restraining order issued under IC 34-26-6;
(4) a no contact order in a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child;
(5) a no contact order issued as a condition of pretrial release,
including release on bail or personal recognizance, or pretrial diversion;
(6) a no contact order issued as a condition of probation;
(7) a protective order to prevent domestic or family violence issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal);
(8) a protective order to prevent domestic or family violence issued under IC 31-14-16-1 in a paternity action;
(9) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;
(10) an order issued in another state that is substantially similar to an order described in subdivisions (1) through (9); or
(11) an order that is substantially similar to an order described in subdivisions (1) through (9) and is issued by an Indian:
(A) tribe;
(B) band;
(C) pueblo;
(D) nation; or
(E) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);
that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians;
commits invasion of privacy, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction for an offense under this section.
As added by P.L.1-1991, SEC.201. Amended by P.L.49-1993, SEC.14; P.L.242-1993, SEC.5; P.L.1-1994, SEC.170; P.L.23-1994, SEC.17; P.L.303-1995, SEC.1; P.L.1-1997, SEC.153; P.L.37-1997, SEC.3; P.L.1-1998, SEC.199; P.L.1-2001, SEC.42; P.L.280-2001, SEC.53; P.L.1-2002, SEC.150; P.L.133-2002, SEC.67.

IC 35-46-1-16

Sec. 16. The law enforcement agency with custody of a person who is sentenced to a term of imprisonment of more than ten (10) days following conviction of a crime under section 15.1 of this chapter shall maintain a confidential record of the:
(1) name;
(2) address; and
(3) telephone number;
of each person that the person convicted under section 15.1 of this chapter is required to refrain from direct or indirect contact with under an order described by section 15.1 of this chapter.
As added by P.L.53-1989, SEC.10. Amended by P.L.1-1991, SEC.202.

IC 35-46-1-17

Sec. 17. A person convicted of a crime under section 15.1 of this chapter may not have access to the information maintained under section 16 of this chapter.
As added by P.L.53-1989, SEC.11. Amended by P.L.1-1991, SEC.203.

IC 35-46-1-18

YAMD.1991
Sec. 18. The law enforcement agency having custody of a person who is sentenced to a term of imprisonment of more than ten (10) days following conviction of a crime under section 15.1 of this chapter shall:

(1) provide each person described in section 16 of this chapter with written notification of:
(A) the release of a person convicted of a crime under section 15.1 of this chapter; and
(B) the date, time, and place of any substantive hearing concerning a violation of section 15.1 of this chapter by a person who is sentenced to a term of imprisonment of more than ten (10) days following conviction of a crime under section 15.1 of this chapter; and
(2) attempt to notify each person described in section 16 of this chapter by telephone to provide the information described in subdivision (1).
As added by P.L.53-1989, SEC.12. Amended by P.L.1-1991, SEC.204.

IC 35-46-1-19

Sec. 19. The law enforcement agency shall:
(1) provide written notice; and
(2) attempt notification by telephone;
under section 18 of this chapter at least twenty-four (24) hours before the release or hearing.
As added by P.L.53-1989, SEC.13.

IC 35-47
ARTICLE 47. WEAPONS AND INSTRUMENTS OF VIOLENCE

IC 35-47-1-2

Sec. 2. "Alcohol abuser" means an individual who has had two (2) or more alcohol related offenses, any one (1) of which resulted in conviction by a court or treatment in an alcohol abuse facility within three (3) years prior to the date of the application.
As added by P.L.311-1983, SEC.32.

IC 35-47-1-4

Sec. 4. "Drug abuser" means an individual who has had two (2) or more violations of IC 35-48-1, IC 35-48-2, IC 35-48-3, or IC 35-48-4, any one (1) of which resulted in conviction by a court or treatment in a drug abuse facility within five (5) years prior to the date of application.
As added by P.L.311-1983, SEC.32.

IC 35-47-2
Chapter 2. Regulation of Handguns

IC 35-47-2-1
Carrying a handgun without a license or by person convicted of domestic battery

Sec. 1. (a) Except as provided in subsection (b) and section 2 of this chapter, a person shall not carry a handgun in any vehicle or on or about the person's body, except in the person's dwelling, on the person's property or fixed place of business, without a license issued under this chapter being in the person's possession.
(b) Unless the person's right to possess a firearm has been restored under IC 3-7-13-5 or IC 33-4-5-7, a person who has been convicted of domestic battery under IC 35-42-2-1.3 may not possess or carry a handgun in any vehicle or on or about the person's body in the person's dwelling or on the person's property or fixed place of business.
As added by P.L.311-1983, SEC.32. Amended by P.L.326-1987, SEC.1; P.L.195-2003, SEC.6.

IC 35-47-2-7

Sec. 7. (a) Except an individual acting within a parent-minor child or guardian-minor protected person relationship or any other individual who is also acting in compliance with IC 35-47-10, a person may not sell, give, or in any other manner transfer the ownership or possession of a handgun or assault weapon (as defined in IC 35-50-2-11) to any person under eighteen (18) years of age.
(b) It is unlawful for a person to sell, give, or in any manner transfer the ownership or possession of a handgun to another person who the person has reasonable cause to believe:
(1) has been:
(A) convicted of a felony; or
(B) adjudicated a delinquent child for an act that would be a felony if committed by an adult, if the person

seeking to obtain ownership or possession of the handgun is less than twenty-three (23) years of age;
(2) is a drug abuser;
(3) is an alcohol abuser; or
(4) is mentally incompetent.
As added by P.L.311-1983, SEC.32. Amended by P.L.33-1989, SEC.126; P.L.140-1994, SEC.8; P.L.269-1995, SEC.7.

IC 35-47-4
Chapter 4. Miscellaneous Provisions

IC 35-47-4-1
Sec. 1. A person who sells, barters, gives, or delivers any deadly weapon to any person at the time in a state of intoxication, knowing him to be in a state of intoxication, or to any person who is in the habit of becoming intoxicated, and knowing him to be a person who is in the habit of becoming intoxicated, commits a Class B misdemeanor.
As added by P.L.311-1983, SEC.32.
IC 35-47-4-6
Unlawful possession of a firearm by a domestic batterer
Sec. 6. (a) A person who has been convicted of domestic battery under IC 35-42-2-1.3 and who knowingly or intentionally possesses a firearm commits unlawful possession of a firearm by a domestic batterer, a Class A misdemeanor.
(b) It is a defense to a prosecution under this section that the person's right to possess a firearm has been restored under IC 3-7-13-5 or IC 33-4-5-7.
As added by P.L.195-2003, SEC.7.

IC 35-47-7-6
Firework and pyrotechnic injury reporting
Sec. 6. (a) The:
(1) practitioner (as defined in IC 25-1-9-2) who initially treats a person for an injury that the practitioner has identified as resulting from fireworks or pyrotechnics; or
(2) administrator or the administrator's designee of the hospital or outpatient surgical center if a person is initially treated in a hospital or an outpatient surgical center for an injury that the administrator has identified as resulting from fireworks or pyrotechnics;
shall report the case to the state health data center of the state department of health not more than five (5) business days after the time the person is treated. The report may be made in writing on a form prescribed by the state department of health.
(b) A person submitting a report under subsection (a) shall make a reasonable attempt to include the following information:
(1) The name, address, and age of the injured person.
(2) The date and time of the injury and the location where the injury occurred.
(3) If the injured person was less than eighteen (18) years of age, whether an adult was present when the injury occurred.
(4) Whether the injured person consumed alcoholic beverages within three (3) hours before the injury occurred.
(5) A description of the firework or pyrotechnic that caused the injury.
(6) The nature and extent of the injury.
(c) A report made under this section is considered confidential for purposes of IC 5-14-3-4(a)(1).
(d) The state department of health shall compile the data collected under this section and submit a report of the compiled data to the legislative council not later than December 31, 2004.
(e) This section expires January 1, 2005.
As added by P.L.96-2003, SEC.1.

IC 35-47-11-3
Emergency ordinances; adoption; conditions warranting
Sec. 3. The legislative body of a unit may adopt an emergency ordinance under this chapter if:
(1) a disaster (as defined in IC 10-14-3-1) has occurred or is likely to occur in the unit; and
(2) a local disaster emergency has been declared in the unit under IC 10-14-3-29.
As added by P.L.140-1994, SEC.13. Amended by P.L.2-2003, SEC.9

IC 35-48-1-9.3
"Controlled substance analog" defined
Sec. 9.3. (a) "Controlled substance analog" means a substance:
(1) the chemical structure of which is substantially similar to that of a controlled substance included in schedule I or II and that has; or
(2) that a person represents or intends to have;
a narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II.
(b) The definition set forth in subsection (a) does not include:
(1) a controlled substance;
(2) a substance for which there is an approved new drug application;
(3) a substance for which an exemption is in effect for investigational use by a person under Section 505 of the federal Food, Drug and Cosmetic Act (chapter 675, 52 Stat. 1052 (21 U.S.C. 355)), to the extent that conduct with respect to the substance is permitted under the exemption; or
(4) a substance to the extent not intended for human consumption before an exemption takes effect regarding the substance.
As added by P.L.225-2003, SEC.1.
IC 35-48-4-0.5
Controlled substance analog; schedule I controlled substance
Sec. 0.5. For purposes of this chapter, a "controlled substance analog" is considered to be a controlled substance in schedule I if the analog is in whole or in part intended for human consumption.
As added by P.L.225-2003, SEC.2.

IC 35-48-4-4.6
Unlawful manufacture, distribution, or possession of counterfeit substance
Sec. 4.6. (a) A person who knowingly or intentionally:
(1) manufactures;
(2) finances the manufacture of;
(3) advertises;
(4) distributes; or
(5) possesses with intent to manufacture, finance the manufacture of, advertise, or distribute;
a substance described in section 4.5 of this chapter commits a Class C felony.
(b) A person who knowingly or intentionally possesses a substance described in section 4.5 of this chapter commits a Class C misdemeanor. However, the offense is a Class A misdemeanor if the person has a previous conviction under this section.
(c) In any prosecution brought under this section it is not a defense that the person believed the substance actually was a controlled substance.
(d) This section does not apply to the following:
(1) The manufacture, financing the manufacture of, processing, packaging, distribution, or sale of noncontrolled substances to licensed medical practitioners for use as placebos in professional practice or research.
(2) Persons acting in the course and legitimate scope of their employment as law enforcement officers.
(3) The retention of production samples of noncontrolled substances produced before September 1, 1986, where such samples are required by federal law.
As added by P.L.210-1986, SEC.2. Amended by P.L.165-1990, SEC.8; P.L.150-1999, SEC.1; P.L.225-2003, SEC.3
IC 35-48-4-8.3
Possession of paraphernalia

Sec. 8.3. (a) A person who possesses a raw material, an instrument, a device, or other object that the person intends to use for:
(1) introducing into the person's body a controlled substance;
(2) testing the strength, effectiveness, or purity of a controlled substance; or
(3) enhancing the effect of a controlled substance;
in violation of this chapter commits a Class A infraction for possessing paraphernalia.
(b) A person who knowingly or intentionally violates subsection (a) commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated judgment or conviction under this section.
(c) A person who recklessly possesses a raw material, an instrument, a device, or other object that is to be used primarily for:
(1) introducing into the person's body a controlled substance;
(2) testing the strength, effectiveness, or purity of a controlled substance; or
(3) enhancing the effect of a controlled substance;
in violation of this chapter commits reckless possession of paraphernalia, a Class B misdemeanor. However, the offense is a Class D felony if the person has a previous judgment or conviction under this section.
As added by Acts 1980, P.L.115, SEC.4. Amended by P.L.202-1989, SEC.5; P.L.166-1990, SEC.2; P.L.58-2003, SEC.1.

IC 35-48-4-8.5

Dealing in paraphernalia

Sec. 8.5. (a) A person who keeps for sale, offers for sale, delivers, or finances the delivery of a raw material, an instrument, a device, or other object that is intended to be or that is designed or marketed to be used primarily for:
(1) ingesting, inhaling, or otherwise introducing into the human body marijuana, hash oil, hashish, or a controlled substance;
(2) testing the strength, effectiveness, or purity of marijuana, hash oil, hashish, or a controlled substance;
(3) enhancing the effect of a controlled substance;
(4) manufacturing, compounding, converting, producing, processing, or preparing marijuana, hash oil, hashish, or a controlled substance;
(5) diluting or adulterating marijuana, hash oil, hashish, or a controlled substance by individuals; or
(6) any purpose announced or described by the seller that is in violation of this chapter;
commits a Class A infraction for dealing in paraphernalia.
(b) A person who knowingly or intentionally violates subsection (a) commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated judgment or conviction under this section.
(c) A person who recklessly keeps for sale, offers for sale, or delivers an instrument, a device, or other object that is to be used primarily for:
(1) ingesting, inhaling, or otherwise introducing into the human body marijuana, hash oil, hashish, or a controlled substance;
(2) testing the strength, effectiveness, or purity of marijuana, hash oil, hashish, or a controlled substance;
(3) enhancing the effect of a controlled substance;
(4) manufacturing, compounding, converting, producing, processing, or preparing marijuana, hash oil, hashish, or a controlled substance;
(5) diluting or adulterating marijuana, hash oil, hashish, or a controlled substance by individuals; or
(6) any purpose announced or described by the seller that is in violation of this chapter;
commits reckless dealing in paraphernalia, a Class B misdemeanor. However, the offense is a Class D felony if the person has a previous judgment or conviction under this section.
(d) This section does not apply to the following:
(1) Items marketed for use in the preparation, compounding, packaging, labeling, or other use of marijuana, hash oil, hashish, or a controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.
(2) Items marketed for or historically and customarily used in connection with the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling of tobacco or any other lawful substance.

As added by P.L.1-1991, SEC.206. Amended by P.L.58-2003, SEC.2..

IC 35-48-4-13.3
Taking juvenile or endangered adult to location used for drug sale, manufacture, or possession
Sec. 13.3. A person who recklessly, knowingly, or intentionally takes a person less than eighteen (18) years of age or an endangered adult (as defined in IC 12-10-3-2) into a building, structure, vehicle, or other place that is being used by any person to:
(1) unlawfully possess drugs or controlled substances; or
(2) unlawfully:
(A) manufacture;
(B) keep;
(C) offer for sale;
(D) sell;
(E) deliver; or
(F) finance the delivery of;
drugs or controlled substances;
commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section.
As added by P.L.225-2003, SEC.4.

IC 35-48-4-14.5
Possession or sale of drug precursors
Sec. 14.5. (a) As used in this section, "chemical reagents or precursors" refers to one (1) or more of the following:
(1) Ephedrine.
(2) Pseudoephedrine.
(3) Phenylpropanolamine.
(4) The salts, isomers, and salts of isomers of a substance identified in subdivisions (1) through (3).
(5) Anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1).
(6) Organic solvents.
(7) Hydrochloric acid.
(8) Lithium metal.
(9) Sodium metal.
(10) Ether.
(11) Sulfuric acid.
(12) Red phosphorous.
(13) Iodine.
(14) Sodium hydroxide (lye).
(15) Potassium dichromate.
(16) Sodium dichromate.
(17) Potassium permanganate.
(18) Chromium trioxide.
(b) A person who possesses more than ten (10) grams of ephedrine, pseudoephedrine or phenylpropanolamine, the salts, isomers or salts of isomers of ephedrine, pseudoephedrine or phenylpropanolamine or a combination of any of these substances exceeding ten (10) grams commits a Class D felony. However, the offense is a Class C felony if the person possessed:
(1) a firearm while possessing more ten (10) grams of ephedrine, pseudoephedrine or phenylpropanolamine, the salts, isomers or salts of isomers of ephedrine, pseudoephedrine or phenylpropanolamine or a combination of any of these substances exceeding ten (10) grams; or
(2) more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, the salts, isomers or salts of isomers of ephedrine, pseudoephedrine, or phenylpropanolamine, or a combination of any of these substances exceeding ten (10) grams in, on, or within one thousand (1,000) feet of:
(A) school property;
(B) a public park;
(C) a family housing complex; or
(D) a youth program center.

(c) A person who possesses anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with the intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6, commits a Class D felony. However, the offense is a Class C felony if the person possessed:
(1) a firearm while possessing anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6; or
(2) anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6 in, on, or within one thousand (1,000) feet of:
(A) school property;
(B) a public park;
(C) a family housing complex; or
(D) a youth program center.
(d) Subsection (b) does not apply to a:
(1) licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier or an agent of any of these persons if the possession is in the regular course of lawful business activities; or
(2) person who possesses more than ten (10) grams of a substance described in subsection (b) if the substance is possessed under circumstances consistent with typical medicinal or household use, including:
(A) the location in which the substance is stored;
(B) the possession of the substance in a variety of:
(i) strengths;
(ii) brands; or
(iii) types; or
(C) the possession of the substance:
(i) with different expiration dates; or
(ii) in forms used for different purposes.
(e) A person who possesses two (2) or more chemical reagents or precursors with the intent to manufacture:
(1) Methcathinone, a schedule I controlled substance under IC 35-48-2-4;
(2) Methamphetamine, a schedule II controlled substance under IC 35-48-2-6;
(3) Amphetamine, a schedule II controlled substance under IC 35-48-2-6; or
(4) Phentermine, a schedule IV controlled substance under IC 35-48-2-10;
commits a Class D felony.
(f) An offense under subsection (e) is a Class C felony if the person possessed:
(1) a firearm while possessing two (2) or more chemical reagents or precursors with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6; or
(2) two (2) or more chemical reagents or precursors with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6 in, on, or within one thousand (1,000) feet of:
(A) school property;
(B) a public park;
(C) a family housing complex; or
(D) a youth program center.
(g) A person who sells, transfers, distributes, or furnishes a chemical reagent or precursor to another person with knowledge or the intent that the recipient will use the chemical reagent or precursors to manufacture methamphetamine, methcathinone, amphetamine, or phentermine commits unlawful sale of a precursor, a Class D felony.
As added by P.L.150-1999, SEC.2. Amended by P.L.17-2001, SEC.28; P.L.225-2003, SEC.5.

IC 35-48-4-17
Restitution for environmental cleanup
Sec. 17. (a) In addition to any other penalty imposed for conviction of an offense under this chapter involving the manufacture or intent to manufacture methamphetamine, a court
shall order restitution under IC 35-50-5-3 to cover the costs, if necessary, of an environmental cleanup incurred by a law enforcement agency or other person as a result of the offense.
(b) The amount collected under subsection (a) shall be used to reimburse the law enforcement agency that assumed the costs associated with the environmental cleanup described in subsection (a).
As added by P.L.225-2003, SEC.6.

IC 35-50
ARTICLE 50. SENTENCES

IC 35-50-1-2
Consecutive and concurrent terms
Sec. 2. (a) As used in this section, "crime of violence" means:
(1) murder (IC 35-42-1-1);
(2) attempted murder (IC 35-41-5-1);
(3) voluntary manslaughter (IC 35-42-1-3);
(4) involuntary manslaughter (IC 35-42-1-4);
(5) reckless homicide (IC 35-42-1-5);
(6) aggravated battery (IC 35-42-2-1.5);
(7) kidnapping (IC 35-42-3-2);
(8) rape (IC 35-42-4-1);
(9) criminal deviate conduct (IC 35-42-4-2);
(10) child molesting (IC 35-42-4-3);
(11) sexual misconduct with a minor as a Class A felony under IC 35-42-4-9(a)(2) or a Class B felony under IC 35-42-4-9(b)(2);
(12) robbery as a Class A felony or a Class B felony (IC 35-42-5-1);
(13) burglary as a Class A felony or a Class B felony (IC 35-43-2-1); or
(14) causing death when operating a motor vehicle (IC 9-30-5-5).
(b) As used in this section, "episode of criminal conduct" means offenses or a connected series of offenses that are closely related in time, place, and circumstance.
(c) Except as provided in subsection (d) or (e), the court shall determine whether terms of imprisonment shall be served concurrently or consecutively. The court may consider the aggravating and mitigating circumstances in IC 35-38-1-7.1(b) and IC 35-38-1-7.1(c) in making a determination under this subsection. The court may order terms of imprisonment to be served consecutively even if the sentences are not imposed at the same time. However, except for crimes of violence, the total of the consecutive terms of imprisonment, exclusive of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10, to which the defendant is sentenced for felony convictions arising out of an episode of criminal conduct shall not exceed the presumptive sentence for a felony which is one
(1) class of felony higher than the most serious of the felonies for which the person has been convicted.
(d) If, after being arrested for one (1) crime, a person commits another crime:
(1) before the date the person is discharged from probation, parole, or a term of imprisonment imposed for the first crime; or
(2) while the person is released:
(A) upon the person's own recognizance; or
(B) on bond;
the terms of imprisonment for the crimes shall be served consecutively, regardless of the order in which the crimes are tried and sentences are imposed.
(e) If a court determines under IC 35-50-2-11 that a person used a firearm in the commission of the offense for which the person was convicted, the term of imprisonment for the underlying offense and the additional term of imprisonment imposed under IC 35-50-2-11 must be served consecutively.
As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.111; P.L.330-1987, SEC.1; P.L.164-1994, SEC.1; P.L.304-1995, SEC.1; P.L.203-1996, SEC.7; P.L.219-1997, SEC.1; P.L.228-2001, SEC.6; P.L.266-2003, SEC.2.

IC 35-50-2
Chapter 2. Death Sentence and Sentences for Felonies and Habitual Offenders

IC 35-50-2-2
Suspension of sentence; limitations
Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.
(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the

offender in a forensic diversion program under IC 11-12-3.5:
(1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.
(2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the
person committed the Class C felony for which the person is being sentenced.
(3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.
(4) The felony committed was:
(A) murder (IC 35-42-1-1);
(B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;
(C) sexual battery (IC 35-42-4-8) with a deadly weapon;
(D) kidnapping (IC 35-42-3-2);
(E) confinement (IC 35-42-3-3) with a deadly weapon;
(F) rape (IC 35-42-4-1) as a Class A felony;
(G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;
(H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;
(I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;
(J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;
(K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;
(L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;
(M) escape (IC 35-44-3-5) with a deadly weapon;
(N) rioting (IC 35-45-1-2) with a deadly weapon;
(O) dealing in cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:
(i) school property;
(ii) a public park;
(iii) a family housing complex; or
(iv) a youth program center;
(P) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand
(1,000) feet of:
(i) school property;
(ii) a public park;
(iii) a family housing complex; or
(iv) a youth program center;
(Q) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5; or
(R) aggravated battery (IC 35-42-2-1.5).
(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.
(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.
(e) Whenever the court suspends that part of an offender's (as defined in IC 5-2-12-4) sentence that is suspendible under subsection (b), the court shall place the offender on probation under IC 35-38-2 for not more than ten (10) years.

(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.
(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.
(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) may not be suspended.
As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.115; Acts 1979, P.L.305, SEC.1; Acts 1982, P.L.204, SEC.39; P.L.334-1983, SEC.2; P.L.284-1985, SEC.3; P.L.211-1986, SEC.1; P.L.98-1988, SEC.9; P.L.351-1989(ss), SEC.4; P.L.214-1991, SEC.2; P.L.240-1991(ss2), SEC.98; P.L.11-1994, SEC.17; P.L.203-1996, SEC.8; P.L.96-1996, SEC.7; P.L.220-1997, SEC.1; P.L.188-1999, SEC.8; P.L.17-2001, SEC.30; P.L.222-2001, SEC.6; P.L.238-2001, SEC.21; P.L.116-2002, SEC.25; P.L.224-2003, SEC.126.

IC 35-50-2-7
Class D felony
Sec. 7. (a) A person who commits a Class D felony shall be imprisoned for a fixed term of one and one-half (1 1/2) years, with not more than one and one-half (1 1/2) years added for aggravating circumstances or not more than one (1) year subtracted for mitigating circumstances. In addition, he may be fined not more than ten thousand dollars ($10,000).
(b) Notwithstanding subsection (a), if a person has committed a Class D felony, the court may enter judgment of conviction of a Class A misdemeanor and sentence accordingly. However, the court shall enter a judgment of conviction of a Class D felony if:
(1) the court finds that:
(A) the person has committed a prior, unrelated felony for which judgment was entered as a conviction of a Class A misdemeanor; and
(B) the prior felony was committed less than three (3) years before the second felony was committed;
(2) the offense is domestic battery as a Class D felony under IC 35-42-2-1.3; or
(3) the offense is possession of child pornography (IC 35-42-4-4(c)).
The court shall enter in the record, in detail, the reason for its action whenever it exercises the power to enter judgment of conviction of a Class A misdemeanor granted in this subsection.
As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.120; Acts 1982, P.L.204, SEC.40; P.L.334-1983, SEC.3; P.L.136-1987, SEC.7; P.L.167-1990, SEC.2; P.L.188-1999, SEC.9; P.L.98-2003, SEC.3.

IC 35-50-2-9 Version a
Death sentence; life imprisonment without parole
Note: This version of section effective until 7-1-2003. See also following version of this section, effective 7-1-2003.
Sec. 9. (a) The state may seek either a death sentence or a sentence of life imprisonment without parole for murder by alleging, on a page separate from the rest of the charging instrument, the existence of at least one (1) of the aggravating circumstances listed in subsection (b). In the sentencing hearing after a person is convicted of murder, the state must prove beyond a reasonable doubt the existence of at least one (1) of the aggravating circumstances alleged. However, the state may not proceed against a defendant under this section if a court determines at a pretrial hearing under IC 35-36-9 that the defendant is a mentally retarded individual.
(b) The aggravating circumstances are as follows:
(1) The defendant committed the murder by intentionally killing the victim while committing or attempting to commit any of the following:
(A) Arson (IC 35-43-1-1).
(B) Burglary (IC 35-43-2-1).
(C) Child molesting (IC 35-42-4-3).
(D) Criminal deviate conduct (IC 35-42-4-2).
(E) Kidnapping (IC 35-42-3-2).
(F) Rape (IC 35-42-4-1).
(G) Robbery (IC 35-42-5-1).

(H) Carjacking (IC 35-42-5-2).
(I) Criminal gang activity (IC 35-45-9-3).

(J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).
(2) The defendant committed the murder by the unlawful detonation of an explosive with intent to injure person or damage property.
(3) The defendant committed the murder by lying in wait.
(4) The defendant who committed the murder was hired to kill.
(5) The defendant committed the murder by hiring another person to kill.
(6) The victim of the murder was a corrections employee, probation officer, parole officer, community corrections worker, home detention officer, fireman, judge, or law enforcement officer, and either:
(A) the victim was acting in the course of duty; or
(B) the murder was motivated by an act the victim performed while acting in the course of duty.
(7) The defendant has been convicted of another murder.
(8) The defendant has committed another murder, at any time, regardless of whether the defendant has been convicted of that other murder.
(9) The defendant was:
(A) under the custody of the department of correction;
(B) under the custody of a county sheriff;
(C) on probation after receiving a sentence for the commission of a felony; or
(D) on parole;
at the time the murder was committed.
(10) The defendant dismembered the victim.
(11) The defendant burned, mutilated, or tortured the victim while the victim was alive.
(12) The victim of the murder was less than twelve (12) years of age.
(13) The victim was a victim of any of the following offenses for which the defendant was convicted:
(A) Battery as a Class D felony or as a Class C felony under IC 35-42-2-1.
(B) Kidnapping (IC 35-42-3-2).
(C) Criminal confinement (IC 35-42-3-3).
(D) A sex crime under IC 35-42-4.
(14) The victim of the murder was listed by the state or known by the defendant to be a witness against the defendant and the defendant committed the murder with the intent to prevent the person from testifying.
(15) The defendant committed the murder by intentionally discharging a firearm (as defined in IC 35-47-1-5):
(A) into an inhabited dwelling; or
(B) from a vehicle.
(16) The victim of the murder was pregnant and the murder resulted in the intentional killing of a fetus that has attained
viability (as defined in IC 16-18-2-365).
(c) The mitigating circumstances that may be considered under this section are as follows:
(1) The defendant has no significant history of prior criminal conduct.
(2) The defendant was under the influence of extreme mental or emotional disturbance when the murder was committed.
(3) The victim was a participant in or consented to the defendant's conduct.
(4) The defendant was an accomplice in a murder committed by another person, and the defendant's participation was relatively minor.
(5) The defendant acted under the substantial domination of another person.
(6) The defendant's capacity to appreciate the criminality of the defendant's conduct or to conform that conduct to the requirements of law was substantially impaired as a result of mental disease or defect or of intoxication.
(7) The defendant was less than eighteen (18) years of age at the time the murder was committed.
(8) Any other circumstances appropriate for consideration.
(d) If the defendant was convicted of murder in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing. The jury or the court may consider all the evidence introduced at the trial stage of the proceedings, together with new evidence presented at the sentencing hearing. The court shall instruct the jury concerning the statutory penalties for murder and any other offenses for which the defendant was convicted, the potential for consecutive or concurrent sentencing, and the availability of good time credit and clemency. The court shall instruct the jury that, in order for the jury to recommend to

the court that the death penalty or life imprisonment without parole should be imposed, the jury must find at least one (1) aggravating circumstance beyond a reasonable doubt as described in subsection (k) and shall provide a special verdict form for each aggravating circumstance alleged. The defendant may present any additional evidence relevant to:
(1) the aggravating circumstances alleged; or
(2) any of the mitigating circumstances listed in subsection (c).
(e) For a defendant sentenced after June 30, 2002, except as provided by IC 35-36-9, if the hearing is by jury, the jury shall recommend to the court whether the death penalty or life imprisonment without parole, or neither, should be imposed. The jury may recommend:
(1) the death penalty; or
(2) life imprisonment without parole;
only if it makes the findings described in subsection (k). If the jury reaches a sentencing recommendation, the court shall sentence the defendant accordingly. After a court pronounces sentence, a representative of the victim's family and friends may present a statement regarding the impact of the crime on family and friends. The impact statement may be submitted in writing or given orally by the representative. The statement shall be given in the presence of the defendant.
(f) If a jury is unable to agree on a sentence recommendation after reasonable deliberations, the court shall discharge the jury and proceed as if the hearing had been to the court alone.
(g) If the hearing is to the court alone, except as provided by IC 35-36-9, the court shall:
(1) sentence the defendant to death; or
(2) impose a term of life imprisonment without parole;
only if it makes the findings described in subsection (k).
(h) If a court sentences a defendant to death, the court shall order the defendant's execution to be carried out not later than one (1) year and one (1) day after the date the defendant was convicted. The supreme court has exclusive jurisdiction to stay the execution of a death sentence. If the supreme court stays the execution of a death sentence, the supreme court shall order a new date for the defendant's execution.
(i) If a person sentenced to death by a court files a petition for post-conviction relief, the court, not later than ninety (90) days after the date the petition is filed, shall set a date to hold a hearing to consider the petition. If a court does not, within the ninety (90) day period, set the date to hold the hearing to consider the petition, the court's failure to set the hearing date is not a basis for additional post-conviction relief. The attorney general shall answer the petition for post-conviction relief on behalf of the state. At the request of the attorney general, a prosecuting attorney shall assist the attorney general. The court shall enter written findings of fact and conclusions of law concerning the petition not later than ninety (90) days after the date the hearing concludes. However, if the court determines that the petition is without merit, the court may dismiss the petition within ninety (90) days without conducting a hearing under this subsection.
(j) A death sentence is subject to automatic review by the supreme court. The review, which shall be heard under rules adopted by the supreme court, shall be given priority over all other cases. The supreme court's review must take into consideration all claims that the:
(1) conviction or sentence was in violation of the:
(A) Constitution of the State of Indiana; or
(B) Constitution of the United States;
(2) sentencing court was without jurisdiction to impose a sentence; and
(3) sentence:
(A) exceeds the maximum sentence authorized by law; or
(B) is otherwise erroneous.
If the supreme court cannot complete its review by the date set by the sentencing court for the defendant's execution under subsection (h), the supreme court shall stay the execution of the death sentence and set a new date to carry out the defendant's execution.
(k) Before a sentence may be imposed under this section, the jury, in a proceeding under subsection (e), or the court, in a proceeding under subsection (g), must find that:
(1) the state has proved beyond a reasonable doubt that at least one (1) of the aggravating circumstances listed in subsection (b) exists; and
(2) any mitigating circumstances that exist are outweighed by the aggravating circumstance or circumstances.
As added by Acts 1977, P.L.340, SEC.122. Amended by P.L.336-1983, SEC.1; P.L.212-1986, SEC.1; P.L.332-1987, SEC.2; P.L.320-1987, SEC.2; P.L.296-1989, SEC.2; P.L.138-1989, SEC.6; P.L.1-1990,

SEC.354; P.L.230-1993, SEC.5; P.L.250-1993, SEC.2; P.L.158-1994, SEC.7; P.L.306-1995, SEC.1; P.L.228-1996, SEC.1; P.L.216-1996, SEC.25; P.L.261-1997, SEC.7; P.L.80-2002, SEC.1; P.L.117-2002, SEC.2; P.L.1-2003, SEC.97.

IC 35-50-2-9 Version b
Death penalty sentencing procedure
Note: This version of section effective 7-1-2003. See also preceding version of this section, effective until 7-1-2003.
Sec. 9. (a) The state may seek either a death sentence or a sentence of life imprisonment without parole for murder by alleging, on a page separate from the rest of the charging instrument, the existence of at least one (1) of the aggravating circumstances listed in subsection (b). In the sentencing hearing after a person is convicted of murder, the state must prove beyond a reasonable doubt the existence of at least one (1) of the aggravating circumstances alleged. However, the state may not proceed against a defendant under this section if a court determines at a pretrial hearing under IC 35-36-9 that the defendant is a mentally retarded individual.
(b) The aggravating circumstances are as follows:
(1) The defendant committed the murder by intentionally killing the victim while committing or attempting to commit any of the following:
(A) Arson (IC 35-43-1-1).
(B) Burglary (IC 35-43-2-1).
(C) Child molesting (IC 35-42-4-3).
(D) Criminal deviate conduct (IC 35-42-4-2).
(E) Kidnapping (IC 35-42-3-2).
(F) Rape (IC 35-42-4-1).
(G) Robbery (IC 35-42-5-1).
(H) Carjacking (IC 35-42-5-2).
(I) Criminal gang activity (IC 35-45-9-3).
(J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).
(2) The defendant committed the murder by the unlawful detonation of an explosive with intent to injure person or damage property.
(3) The defendant committed the murder by lying in wait.
(4) The defendant who committed the murder was hired to kill.
(5) The defendant committed the murder by hiring another person to kill.
(6) The victim of the murder was a corrections employee, probation officer, parole officer, community corrections worker, home detention officer, fireman, judge, or law enforcement officer, and either:
(A) the victim was acting in the course of duty; or
(B) the murder was motivated by an act the victim performed while acting in the course of duty.
(7) The defendant has been convicted of another murder.
(8) The defendant has committed another murder, at any time, regardless of whether the defendant has been convicted of that other murder.
(9) The defendant was:
(A) under the custody of the department of correction;
(B) under the custody of a county sheriff;
(C) on probation after receiving a sentence for the commission of a felony; or
(D) on parole;
at the time the murder was committed.
(10) The defendant dismembered the victim.
(11) The defendant burned, mutilated, or tortured the victim while the victim was alive.
(12) The victim of the murder was less than twelve (12) years of age.
(13) The victim was a victim of any of the following offenses for which the defendant was convicted:
(A) Battery as a Class D felony or as a Class C felony under IC 35-42-2-1.
(B) Kidnapping (IC 35-42-3-2).
(C) Criminal confinement (IC 35-42-3-3).
(D) A sex crime under IC 35-42-4.
(14) The victim of the murder was listed by the state or known by the defendant to be a witness against the defendant and the defendant committed the murder with the intent to prevent the person from testifying.

(15) The defendant committed the murder by intentionally discharging a firearm (as defined in IC 35-47-1-5):
(A) into an inhabited dwelling; or
(B) from a vehicle.
(16) The victim of the murder was pregnant and the murder resulted in the intentional killing of a fetus that has attained viability (as defined in IC 16-18-2-365).
(c) The mitigating circumstances that may be considered under this section are as follows:
(1) The defendant has no significant history of prior criminal conduct.
(2) The defendant was under the influence of extreme mental or emotional disturbance when the murder was committed.
(3) The victim was a participant in or consented to the
defendant's conduct.
(4) The defendant was an accomplice in a murder committed by another person, and the defendant's participation was relatively minor.
(5) The defendant acted under the substantial domination of another person.
(6) The defendant's capacity to appreciate the criminality of the defendant's conduct or to conform that conduct to the requirements of law was substantially impaired as a result of mental disease or defect or of intoxication.
(7) The defendant was less than eighteen (18) years of age at the time the murder was committed.
(8) Any other circumstances appropriate for consideration.
(d) If the defendant was convicted of murder in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing. The jury or the court may consider all the evidence introduced at the trial stage of the proceedings, together with new evidence presented at the sentencing hearing. The court shall instruct the jury concerning the statutory penalties for murder and any other offenses for which the defendant was convicted, the potential for consecutive or concurrent sentencing, and the availability of good time credit and clemency. The court shall instruct the jury that, in order for the jury to recommend to the court that the death penalty or life imprisonment without parole should be imposed, the jury must find at least one (1) aggravating circumstance beyond a reasonable doubt as described in subsection (k) and shall provide a special verdict form for each aggravating circumstance alleged. The defendant may present any additional evidence relevant to:
(1) the aggravating circumstances alleged; or
(2) any of the mitigating circumstances listed in subsection (c).
(e) For a defendant sentenced after June 30, 2002, except as provided by IC 35-36-9, if the hearing is by jury, the jury shall recommend to the court whether the death penalty or life imprisonment without parole, or neither, should be imposed. The jury may recommend:
(1) the death penalty; or
(2) life imprisonment without parole;
only if it makes the findings described in subsection (l). If the jury reaches a sentencing recommendation, the court shall sentence the defendant accordingly. After a court pronounces sentence, a representative of the victim's family and friends may present a statement regarding the impact of the crime on family and friends. The impact statement may be submitted in writing or given orally by the representative. The statement shall be given in the presence of the defendant.
(f) If a jury is unable to agree on a sentence recommendation after reasonable deliberations, the court shall discharge the jury and proceed as if the hearing had been to the court alone.
(g) If the hearing is to the court alone, except as provided by IC 35-36-9, the court shall:
(1) sentence the defendant to death; or
(2) impose a term of life imprisonment without parole;
only if it makes the findings described in subsection (l).
(h) If a court sentences a defendant to death, the court shall order the defendant's execution to be carried out not later than one (1) year and one (1) day after the date the defendant was convicted. The supreme court has exclusive jurisdiction to stay the execution of a death sentence. If the supreme court stays the execution of a death sentence, the supreme court shall order a new date for the defendant's execution.
(i) If a person sentenced to death by a court files a petition for post-conviction relief, the court, not later than ninety (90) days after the date the petition is filed, shall set a date to hold a hearing to consider the petition. If a court does not, within the ninety (90) day period, set the date to hold the hearing to consider

the petition, the court's failure to set the hearing date is not a basis for additional post-conviction relief. The attorney general shall answer the petition for post-conviction relief on behalf of the state. At the request of the attorney general, a prosecuting attorney shall assist the attorney general. The court shall enter written findings of fact and conclusions of law concerning the petition not later than ninety (90) days after the date the hearing concludes. However, if the court determines that the petition is without merit, the court may dismiss the petition within ninety (90) days without conducting a hearing under this subsection.
(j) A death sentence is subject to automatic review by the supreme court. The review, which shall be heard under rules adopted by the supreme court, shall be given priority over all other cases. The supreme court's review must take into consideration all claims that the:
(1) conviction or sentence was in violation of the:
(A) Constitution of the State of Indiana; or
(B) Constitution of the United States;
(2) sentencing court was without jurisdiction to impose a sentence; and
(3) sentence:
(A) exceeds the maximum sentence authorized by law; or
(B) is otherwise erroneous.
If the supreme court cannot complete its review by the date set by the sentencing court for the defendant's execution under subsection (h), the supreme court shall stay the execution of the death sentence and set a new date to carry out the defendant's execution.
(k) A person who has been sentenced to death and who has completed state post-conviction review proceedings may file a written petition with the supreme court seeking to present new evidence challenging the person's guilt or the appropriateness of the death sentence if the person serves notice on the attorney general. The supreme court shall determine, with or without a hearing, whether the person has presented previously undiscovered evidence
that undermines confidence in the conviction or the death sentence. If necessary, the supreme court may remand the case to the trial court for an evidentiary hearing to consider the new evidence and its effect on the person's conviction and death sentence. The supreme court may not make a determination in the person's favor nor make a decision to remand the case to the trial court for an evidentiary hearing without first providing the attorney general with an opportunity to be heard on the matter.
(l) Before a sentence may be imposed under this section, the jury, in a proceeding under subsection (e), or the court, in a proceeding under subsection (g), must find that:
(1) the state has proved beyond a reasonable doubt that at least one (1) of the aggravating circumstances listed in subsection (b) exists; and
(2) any mitigating circumstances that exist are outweighed by the aggravating circumstance or circumstances.
As added by Acts 1977, P.L.340, SEC.122. Amended by P.L.336-1983, SEC.1; P.L.212-1986, SEC.1; P.L.332-1987, SEC.2; P.L.320-1987, SEC.2; P.L.296-1989, SEC.2; P.L.138-1989, SEC.6; P.L.1-1990, SEC.354; P.L.230-1993, SEC.5; P.L.250-1993, SEC.2; P.L.158-1994, SEC.7; P.L.306-1995, SEC.1; P.L.228-1996, SEC.1; P.L.216-1996, SEC.25; P.L.261-1997, SEC.7; P.L.80-2002, SEC.1; P.L.117-2002, SEC.2; P.L.1-2003, SEC.97; P.L.147-2003, SEC.1.

IC 35-50-2-10
Sec. 10. (a) As used in this section:
(1) "Drug" means a drug or a controlled substance (as defined in IC 35-48-1).
(2) "Substance offense" means a Class A misdemeanor or a felony in which the possession, use, abuse, delivery, transportation, or manufacture of alcohol or drugs is a material element of the crime. The term includes an offense under IC 9-30-5 and an offense under IC 9-11-2 (before its repeal July 1, 1991).
(b) The state may seek to have a person sentenced as a habitual substance offender for any substance offense by alleging, on a page separate from the rest of the charging instrument, that the person has accumulated two (2) prior unrelated substance offense convictions.
(c) After a person has been convicted and sentenced for a substance offense committed after sentencing for a prior unrelated substance offense conviction, the person has accumulated two (2) prior unrelated substance offense convictions. However, a conviction does not count
for purposes of this subsection if:
(1) it has been set aside; or
(2) it is a conviction for which the person has been pardoned.

(d) If the person was convicted of the substance offense in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing, under IC 35-38-1-3.
(e) A person is a habitual substance offender if the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person had accumulated two (2) prior unrelated substance offense convictions.
(f) The court shall sentence a person found to be a habitual substance offender to an additional fixed term of at least three (3) years but not more than eight (8) years imprisonment, to be added to the term of imprisonment imposed under IC 35-50-2 or IC 35-50-3. If the court finds that:
(1) three (3) years or more have elapsed since the date the person was discharged from probation, imprisonment, or parole (whichever is later) for the last prior unrelated substance offense conviction and the date the person committed the substance offense for which the person is being sentenced as a habitual substance offender; or
(2) all of the substance offenses for which the person has been convicted are substance offenses under IC 16-42-19 or IC 35-48-4, the person has not been convicted of a substance offense listed in section 2(b)(4) of this chapter, and the total number of convictions that the person has for:
(A) dealing in or selling a legend drug under IC 16-42-19-27;
(B) dealing in cocaine or a narcotic drug (IC 35-48-4-1);
(C) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);
(D) dealing in a schedule IV controlled substance (IC 35-48-4-3); and
(E) dealing in a schedule V controlled substance (IC 35-48-4-4);
does not exceed one (1);
then the court may reduce the additional fixed term. However, the court may not reduce the additional fixed term to less than one (1) year.
(g) If a reduction of the additional year fixed term is authorized under subsection (f), the court may also consider the aggravating or mitigating circumstances in IC 35-38-1-7.1 to:
(1) decide the issue of granting a reduction; or
(2) determine the number of years, if any, to be subtracted, under subsection (f).
As added by P.L.335-1983, SEC.2. Amended by P.L.327-1985, SEC.5; P.L.98-1988, SEC.11; P.L.1-1990, SEC.355; P.L.96-1996, SEC.8; P.L.97-1996, SEC.5; P.L.2-1997, SEC.77; P.L.291-2001, SEC.227.

IC 35-50-3-4
Sec. 4. A person who commits a Class C misdemeanor shall be imprisoned for a fixed term of not more than sixty (60) days; in addition, he may be fined not more than five hundred dollars ($500).
As added by Acts 1978, P.L.2, SEC.3554.

IC 35-50-6-3.3
Credit time for successful completion of educational degree or certificate
Sec. 3.3. (a) In addition to any credit time a person earns under subsection (b) or section 3 of this chapter, a person earns credit time if the person:
(1) is in credit Class I;
(2) has demonstrated a pattern consistent with rehabilitation; and
(3) successfully completes requirements to obtain one (1) of the following:
(A) A general educational development (GED) diploma under IC 20-10.1-12.1, if the person has not previously obtained a high school diploma.
(B) A high school diploma.
(C) An associate's degree from an approved institution of higher learning (as defined under IC 20-12-21-3).
(D) A bachelor's degree from an approved institution of higher learning (as defined under IC 20-12-21-3).
(b) In addition to any credit time that a person earns under subsection (a) or section 3 of this chapter, a person may earn credit time if, while confined by the department of correction, the person:
(1) is in credit Class I;
(2) demonstrates a pattern consistent with rehabilitation; and
(3) successfully completes requirements to obtain at least one (1) of the following:
(A) A certificate of completion of a vocational education program approved by the department of correction.
(B) A certificate of completion of a substance abuse program approved by the department of correction.

(C) A certificate of completion of a literacy and basic life skills program approved by the department of correction.
(c) The department of correction shall establish admissions criteria and other requirements for programs available for earning credit time under subsection (b). A person may not earn credit time under both subsections (a) and (b) for the same program of study.
(d) The amount of credit time a person may earn under this section is the following:
(1) Six (6) months for completion of a state of Indiana general educational development (GED) diploma under IC 20-10.1-12.1.
(2) One (1) year for graduation from high school.
(3) One (1) year for completion of an associate's degree.
(4) Two (2) years for completion of a bachelor's degree.
(5) Not more than a total of six (6) months of credit, as determined by the department of correction, for the completion of one (1) or more vocational education programs approved by the department of correction.
(6) Not more than a total of six (6) months of credit, as determined by the department of correction, for the completion of one (1) or more substance abuse programs approved by the department of correction.
(7) Not more than a total of six (6) months credit, as determined by the department of correction, for the completion of one (1) or more literacy and basic life skills programs approved by the department of correction.
However, a person who does not have a substance abuse problem that qualifies the person to earn credit in a substance abuse program may earn not more than a total of twelve (12) months of credit, as determined by the department of correction, for the completion of one (1) or more vocational education programs approved by the department of correction. If a person earns more than six (6) months of credit for the completion of one (1) or more vocational education programs, the person is ineligible to earn credit for the completion of one (1) or more substance abuse programs.
(e) Credit time earned by a person under this section is subtracted from the release date that would otherwise apply to the person after subtracting all other credit time earned by the person.
(f) A person does not earn credit time under subsection (a) unless the person completes at least a portion of the degree requirements after June 30, 1993.
(g) A person does not earn credit time under subsection (b) unless the person completes at least a portion of the program requirements after June 30, 1999.
(h) Credit time earned by a person under subsection (a) for a diploma or degree completed before July 1, 1999, shall be subtracted from:
(1) the release date that would otherwise apply to the person after subtracting all other credit time earned by the person, if the person has not been convicted of an offense described in subdivision (2); or
(2) the period of imprisonment imposed on the person by the sentencing court, if the person has been convicted of one (1) of the following crimes:
(A) Rape (IC 35-42-4-1).
(B) Criminal deviate conduct (IC 35-42-4-2).
(C) Child molesting (IC 35-42-4-3).
(D) Child exploitation (IC 35-42-4-4(b)).
(E) Vicarious sexual gratification (IC 35-42-4-5).
(F) Child solicitation (IC 35-42-4-6).
(G) Child seduction (IC 35-42-4-7).
(H) Sexual misconduct with a minor as a Class A felony, Class B felony, or Class C felony (IC 35-42-4-9).
(I) Incest (IC 35-46-1-3).
(J) Sexual battery (IC 35-42-4-8).
(K) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.
(L) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.
(M) An attempt or a conspiracy to commit a crime listed in clauses (A) through (L).
(i) The maximum amount of credit time a person may earn under this section is the lesser of:
(1) four (4) years; or
(2) one-third (1/3) of the person's total applicable credit time.
(j) The amount of credit time earned under this section is reduced to the extent that application of the credit time would otherwise result in:
(1) postconviction release (as defined in IC 35-40-4-6); or
(2) assignment of the person to a community transition program;

in less than forty-five (45) days after the person earns the credit time.
(k) A person may earn credit time for multiple degrees at the same education level under subsection (d) only in accordance with guidelines approved by the department of correction. The department of correction may approve guidelines for proper sequence of education degrees under subsection (d).
As added by P.L.243-1993, SEC.2. Amended by P.L.149-1995, SEC.17; P.L.148-1995, SEC.7; P.L.183-1999, SEC.3; P.L.243-1999, SEC.3; P.L.14-2000, SEC.78; P.L.90-2000, SEC.21; P.L.164-2003, SEC.1.